

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 18-23538-rdd

4 - - - - - x

5 In the Matter of:

6

7 SEARS HOLDINGS CORPORATION,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 July 23, 2019

17 10:24 AM

18

19

20

21 B E F O R E :

22 HON ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: NAROTAM RAI

1 HEARING re Debtors' Motion to Strike Second-Lien Holders'  
2 Experts in Connection with July 23, 2019, Hearing on Rule  
3 507(b) Determination (related document(s)4565)  
4  
5 HEARING re Motion of Cyrus Capital Partners, L.P. , ESL  
6 Investments, Inc. and Wilmington Trust, National  
7 Associations in Limine to Exclude Certain Testimony and  
8 Strike Certain Portions of the Declarations by the Debtors'  
9 Fact Witness Brian Griffith (related document(s)4439, 4272)  
10 filed by Thomas J. Moloney on behalf of Cyrus Capital  
11 Partners, L.P., ESL Investments, Inc., Wilmington Trust,  
12 National Association (document #4564)  
13  
14 HEARING re Debtors Motion to Estimate Certain 507(B) Claims  
15 for Reserve Purposes filed by Ray C Schrock on behalf of  
16 Sears Holdings Corporation (document #4034)  
17  
18 HEARING re Debtors' (I) Opposition to Second-Lien Holders'  
19 Requests to Determine Amount of Second-Lien Secured Claims  
20 Under Section 506(a) and Section 507(b) Administrative  
21 Claims and (II) Reply in Support of Debtors' Rule 3012  
22 Motion to Determine the Amount, if any, of 507(b) Claims and  
23 to Surcharge Second-Lien Collateral Pursuant to Section  
24 506(c) (related document(s)4034) (document #4381)  
25

1 HEARING re The Debtors' Supplemental Brief on Expert  
2 Discovery and in Further Support of (I) Opposition to  
3 Second-Lien Holders' Requests to Determine Amount of Second-  
4 Lien Secured Claims Under Section 506(a) and Section 507(b)  
5 Administrative Claims and (II) Reply in Support of the  
6 Debtors' Rule 3012 Motion to Determine the Amount, if any,  
7 of 507(b) Claims and to Surcharge Second-Lien Collateral  
8 Pursuant to Section 506(c) (related document(s)4034)  
9 (document #4565)

10

11 HEARING re The Creditors<sup>1</sup> Committee's (I) Qualified Joinder  
12 to the Debtors' Objection to the Second Lien Parties'  
13 Requests to Determine Claims Under Section 506(A) and  
14 Section 507(B) and Reply in Support of the Debtors' Rule  
15 3012 Motion and (II) Supplemental Objection to the Second  
16 Lien Parties' Request to Determine Claims Under Section  
17 506(A) and Section 507(B) (REDACTED) (related  
18 document(s)4034, 4381) (document #4385)

19

20 HEARING re The Creditors' Committee's (I) Qualified Joinder  
21 to the Debtors' Objection to the Second Lien Parties'  
22 Requests to Determine Claims Under Section 506(A) and  
23 Section 507(B) and Reply in Support of Debtors' Rule 3012  
24 Motion and (II) Supplemental Objection to the Second Lien  
25 Parties' Request to Determine the Claims Under Section

1 506(A) and Section 507(B) (related document(s)4034, 4381)  
2 (document #4538)  
3  
4 HEARING re Common Memorandum of Law on Behalf of the Second  
5 Lien Parties: (A) In Support of Their Requests to Determine  
6 the Amount of Their Second Lien Secured Claims Under Section  
7 506(a) and Their Section 507(b) Administrative Claims  
8 Pursuant to Bankruptcy Rule 3012; and (B) In Opposition to  
9 Debtors Motion to Surcharge Their Collateral Pursuant to  
10 Section 506( c) ( document #4,272)  
11  
12 HEARING re Supplemental Memorandum of Law on Behalf of ESL  
13 Investments, Inc. In Support of Its Requests to Determine  
14 the Amount of Its Second Lien Secured Claims Under Section  
15 506(a) and Its Section 507(b) Administrative Claims Pursuant  
16 to Bankruptcy Rule 3012; and In Opposition to the Debtors'  
17 Motion to Surcharge Its Collateral Pursuant to Section  
18 506(c) (document #4273)  
19  
20 HEARING re Motion of Cyrus Capital Partners, L.P. for Leave  
21 to File Under Seal (1) Memorandum of Law In Support of Cyrus  
22 Capital Partners, L.P. to Determine the Amount of Secured  
23 Claims Under Section 506(a) and Section 507(b)  
24 Administrative Claims Pursuant to Bankruptcy Rule 3012 and  
25 In Opposition to Debtors' Request to Surcharge Collateral

1 Pursuant to Section 506(c) and (2) Expert Report of Marti P.  
2 Murray filed by Thomas R. Kreller on behalf of Cyrus Capital  
3 Partners, L.P. (document #4274)

4  
5 HEARING re ESL's Demand For Payment (document #4276)

6  
7 HEARING re Request For Payment filed by Thomas R. Kreller on  
8 behalf of Cyrus Capital Partners, L.P. (document #4278)

9  
10 HEARING re Memorandum of Law in Support of Request of Cyrus  
11 Capital Partners, L.P. to Determine the Amount of Secured  
12 Claims under Section 506(a) and Section 507(b)  
13 Administrative Claims Pursuant to Bankruptcy Rule 3012 and  
14 in Opposition to Debtors' Request to Surcharge Collateral  
15 Pursuant to Section 506(c) (document #4313)

16  
17 HEARING re Common Reply Memorandum of Law on Behalf of the  
18 Second Lien Parties: (a) in Further Support of Their  
19 Requests to Determine the Amount of Their Second Lien  
20 Secured Claims Under Section 506(a) and Their Section 507(b)  
21 Administrative Claims Pursuant to Bankruptcy Rule 3012; and  
22 (b) in Opposition to Debtors' Motion to Surcharge Their  
23 Collateral Pursuant to Section 506(c) (document #4439)

24  
25 HEARING re Supplemental Reply Memorandum of Law on Behalf of

1 ESL Investments, Inc. in Further Support of Its Request to  
2 Determine the Amount of Its Second Lien Secured Claims Under  
3 Section 506(a) and Its Section 507(b) Administrative Claims  
4 Pursuant to Bankruptcy Rule 3012; and in Opposition to the  
5 Debtors' Motion to Surcharge Its Collateral Pursuant to  
6 Section 506( c ) ( document #4440)

7  
8 HEARING re Supplemental Reply Memorandum of Law in Further  
9 Support of the Request of Wilmington Trust, National  
10 Association, as Indenture Trustee and Collateral Agent for  
11 Payment of an Administrative Expense Pursuant to 11 U.S.C. §  
12 503(a) With Priority Over All Other Administrative Expenses  
13 Pursuant to 11 U.S.C. § 507(a) and For Allowing of A Secured  
14 Claim to the Extent of Remaining Collateral Pursuant to 11  
15 U.S.C. § 506(a) (Corrected) (related document(s)4279)  
16 (document #4445)

17  
18 HEARING re Common Supplemental Brief of the Second Lien  
19 Parties Addressing Discovery: (A) In Connection with Their  
20 Requests to Determine the Amount of Their Second Lien  
21 Secured Claims Under Section 506(a) and Their Section 507(b)  
22 Administrative Claims Pursuant to Bankruptcy Rule 3012; and  
23 (B) In Opposition to Debtors' Motion to Surcharge Their  
24 Collateral Pursuant to Section 506( c ) (related document( s  
25 )4 272) ( document #4570)

1 HEARING re Motion for Payment of Administrative Expenses  
2 Request of Wilmington Trust, National Association, as  
3 Indenture Trustee and Collateral Agent for Payment of an  
4 Administrative Expense Pursuant to 11 U.S.C. § 503(a) With  
5 Priority Over All Other Administrative Expenses Pursuant to  
6 11 U.S.C. § 507(b) and For Allowance of a Secured Claim to  
7 the Extent of Remaining Collateral Pursuant to 11 U.S.C. §  
8 506(a) (unredacted version of Dkt. No. 4279) (document  
9 #4586)

10  
11 HEARING re Memorandum of Law Supplemental Memorandum of Law  
12 of Wilmington Trust, National Association, as Indenture  
13 Trustee and Collateral Agent, (I) In Support of Motion  
14 Pursuant to Bankruptcy Rule 3012 for Determination of Amount  
15 of Secured Claim Pursuant to 11 U.S.C. § 506(a) and Amount  
16 of Claim Entitled to Priority Pursuant to 11 U.S.C. § 507(b)  
17 and (II) In Opposition to the Debtors Motion Pursuant to 11  
18 U.S.C. § 506(c) (unredacted version of Dkt. No. 4280)  
19 (document #4587)

20  
21  
22  
23  
24  
25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 CLEARY GOTTlieb STEEN & HAMILTON LLP

4 Attorneys for ESL

5 One Liberty Plaza

6 New York, NY 10006

7

8 BY: THOMAS J. MOLONEY

9 ANDREW WEAVER

10 SEAN A. O'NEAL

11

12 WEIL, GOTSHAL & MANGES LLP

13 Attorneys for the Debtors

14 767 Fifth Avenue

15 New York, NY 10153

16

17 BY: NATASHA S. HWANGPO

18 JARED R. FRIEDMANN

19

20 WEIL, GOTSHAL & MANGES LLP

21 Attorneys for the Debtors

22 200 Crescent Court, Suite 300

23 Dallas, TX 75201

24

25 BY: PAUL R. GENENDER

1 SEYFARTH SHAW LLP

2 Attorneys for Wilmington Trust, National Association as

3 Indenture Trustee and Collateral Agent

4 620 Eighth Avenue

5 New York, NY 10018

6  
7 BY: EDWARD M. FOX

8 STEVEN PARADISE

9  
10 MILBANK, TWEED, HADLEY & MCCLOY LLP

11 Attorneys for Cyrus Capital

12 28 Liberty Street

13 New York, NY 10005

14  
15 BY: THOMAS R. KRELLER

16 ROBERT J. LIUBICIC

17  
18 AKIN GUMP STRAUSS HAUER & FELD LLP

19 Attorneys for the Unsecured Creditors Committee

20 One Bryant Park

21 New York, NY 10036

22  
23 BY: SARA L. BRAUNER

24 JOSEPH L. SORKIN

25 PHILIP C. DUBLIN

1 GETZLER HENRICH

2 295 Madison Avenue, 20th Floor

3 New York, NY 10017

4

5 BY: WILLIAM H. HENRICH

6

7 ALSO PRESENT TELEPHONICALLY:

8 ALIX BROZMAN

9 MARIA CHUTCHIAN

10 SONIA E. COLON

11 JASON DIBATTISTA

12 ROBERT J. GAYDA

13 WILLIAM S. HOLSTE

14 HOO RI KIM

15 MATTHEW KOCH

16 ZACHARY D. LANIER

17 TERESA LII

18 SHIRIN MAHKAMOVA

19 MICHAEL MITTELMAN

20 COURTNEY D. MORPHET

21 BRYAN OBERG

22 RITA MARIE RITROVATO

23 CHRIS STAUBLE

24 ANDREW M. THAU

25 DAVID H. WANDER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

[SEE EXAMPLES]

CLERK: All rise.

THE COURT: Please be seated. Good morning. In  
re Sears Holdings Corporation, et al.

MR. GENENDER: Good morning, Your Honor, Paul  
Genender, Weil, Gotshal & Manges for the debtors. And when  
the Court's ready, we'd like to proceed with our motion on  
the 2L's experts.

THE COURT: The motion in limine.

MR. GENENDER: Yes, yes, Your Honor.

THE COURT: Okay.

MR. MOLONEY: Good morning, Your Honor. Tom  
Moloney and Andrew Weaver of Cleary Gottlieb Steen &  
Hamilton LLP on behalf of ESL.

THE COURT: Good morning. And I suppose you want  
to proceed with your motion in limine too?

MR. MOLONEY: Yeah. Well, yes. But when it's  
time for me to talk or now I would suggest that I think that  
they are two different qualitative motions and that the  
motion that we've advanced dealing with the parol evidence  
questions are ones that I think you should hear as a  
threshold level.

1           The other motion -- and frankly we've raised  
2       similar issues in our briefs about the competence and some  
3       of the assumptions, the correction of some of -- the  
4       correctness of some of the opinions, the basis for the  
5       evidence. I think that might be better dealt with, frankly,  
6       in the course of the cross-examinations with people  
7       reserving their rights after the declaration is entered to  
8       move at the end of those declarations to strike testimony.  
9       But Your Honor obviously will proceed however you think is  
10      best.

11           THE COURT: Okay.

12           MR. LIUBICIC: Good morning, Your Honor. Robert  
13       Liubicic with Milbank on behalf of Cyrus Capital Partners  
14       LP. And with me today, Your Honor, is Tom Kreller, also  
15       with Milbank.

16           MR. FOX: Good morning, Your Honor. Edward Fox  
17       with Seyfarth Shaw on behalf of Wilmington Trust National  
18       Association as collateral agent and indentured trustee. And  
19       with me also is my partner, Steven Paradise.

20           THE COURT: Okay, good morning. All right. I  
21       think I probably should take both motions in limine now. As  
22       I think I've told all of you, I'm not a big fan of motions  
23       in limine. And normally these issues can come up when  
24       there's objections to specific testimony. But here  
25       testimony is -- I think there -- I think the testimony would

1 benefit from some guidance on both motions.

2 I don't know if we have the experts here and  
3 whether the parties are content to have them stay here since  
4 people will be commenting on their testimony before they  
5 testify.

6 MR. MOLONEY: Our expert's here, but we have no  
7 problem with their experts staying for this part of the  
8 testimony.

9 THE COURT: Okay.

10 MR. GENENDER: Mr. Griffith is here  
11 (indiscernible) on call. But we don't have an issue as  
12 well, Your Honor.

13 THE COURT: All right. So I don't care who goes  
14 first.

15 MR. GENENDER: Your Honor, I stood up first, so  
16 that's got to count for something. Your Honor, Paul  
17 Genender, Weil, Gotshal and Manges on behalf of the debtors.  
18 I didn't introduce -- I'm obviously here with my partners,  
19 Ray Schrock and Sunny Singh. May I approach, Your Honor? I  
20 have a demonstrative and some excerpts that we'll be using  
21 throughout the course of the day. I've given them to  
22 Counsel.

23 THE COURT: Okay.

24 MR. GENENDER: Thank you.

25 THE COURT: All right. But these don't really go

1 to the motions in limine, do they? Or only to a minor  
2 extent.

3 MR. GENENDER: Somewhat. Somewhat.

4 THE COURT: Okay.

5 MR. GENENDER: Your Honor, our -- I'm going to --  
6 knowing how the Court feels about these sorts of motions,  
7 I'm going to be brief and I'm going to -- and I know the  
8 Court's read the materials.

9 We certainly understand that striking experts is  
10 not a routine matter. In this case I submit it warrants  
11 consideration. This is not a motion about the  
12 qualifications of Mr. Schulte, of Mr. Henrich, or Ms.  
13 Murray, rather it's a motion to strike what we think is  
14 unreliable and flawed opinions that lack the credibility  
15 required to be presented to this court.

16 At the outset, the Debtors submit that the 507(b)  
17 matter is not nearly as complicated as the second  
18 lienholders would have this court believe. In fact, it's an  
19 entirely fact-based exercise, as shown by the Debtor's  
20 submission and reliance upon the factual testimony of Brian  
21 Griffith and Brandon Abersold. Compared with ResCap, this  
22 507(b) determination is far more straightforward.

23 As this court has noted, we have an actual outcome  
24 of the sale and related GOB sales. So this should be a much  
25 easier process. As expressed in this Court's own words in

1 April, on April 18th, we actually have the facts so it's a  
2 lot easier --

3 MR. MOLONEY: This is more like a closing argument  
4 than a motion in limine.

5 THE COURT: Well, let me try to cut through this.  
6 I don't get the impression that you are looking to strike  
7 these expert declarations on the basis of Daubert and Kumho  
8 Tire, right? It really goes to two separate different  
9 grounds. The first is that they're in essence not expert  
10 declarations at all, they're basically just comments on the  
11 factual record before me, which is in essence the same basis  
12 as the second lienholder's objection. Although they also  
13 point out the flip side, which is that Mr. Griffith isn't  
14 testifying as an expert in the first place, but in essence  
15 he's just commenting on facts, and to the extent he's not  
16 commenting on facts, I shouldn't hear his testimony because  
17 he's not an expert.

18 The flip side of that is it seems to me that these  
19 experts who, as you say, are perfectly qualified to present  
20 expert testimony are in essence commenting on the facts and  
21 not providing expert testimony except in very limited  
22 portions of their declarations. On top of that, I think you  
23 also suggest that they rely on expert reports without having  
24 vetted them in an expert way, primarily the Tiger appraisal,  
25 but also appraisals underlying the equity bids. Is that

1 fair?

2 MR. GENENDER: Yes, Your Honor.

3 THE COURT: Okay.

4 MR. GENENDER: And so it's not -- the basis of the  
5 motion relates to the fact that they're relying upon faulty  
6 assumptions so their testimony isn't helpful to you. Now, I  
7 --

8 THE COURT: Well, you could point out the faulty  
9 assumptions. I think that the bigger issue is whether the  
10 testimony should be given the (indiscernible) of expert  
11 testimony when it's basically just fact testimony or  
12 commenting on facts that appear in the record without really  
13 an expert analysis behind it.

14 MR. GENENDER: And there's a significant  
15 difference, as this court knows well, between these three  
16 proffered experts by the second lienholders on the one hand  
17 and Mr. Griffith on the other.

18 THE COURT: Well, that's the nature of the expert  
19 testimony.

20 MR. GENENDER: Well, but Mr. Griffith is offering  
21 fact testimony, but he has firsthand factual knowledge  
22 because he's been working on this at Sears for three-and-a-  
23 half years. And that's the basis from which -- that's the  
24 vantagepoint from which he's offering his either  
25 observations or --

1 THE COURT: Well, he is just a fact witness. So  
2 it's really -- these motions are actually flip sides of each  
3 other. They're objecting to Mr. Griffith's motion to the  
4 extent it purports to be expert testimony -- I'm sorry, to  
5 the extent it purports to be fact testimony when in fact  
6 it's expert testimony. You're objecting to the three  
7 experts on the basis that what purports to be expert  
8 testimony is really fact testimony.

9 MR. GENENDER: Yes. And I stand before you well  
10 aware that Your Honor can take the position that it goes to  
11 the weight and not the admissibility. However, I do think  
12 in this situation it rises to the level of when they have  
13 three different opinions that are widely divergent based on  
14 widely different sets of flaws, and we submit that Mr.  
15 Griffith just did math and took into -- and followed this  
16 court's instructions in April, which were you have the facts  
17 of the sale, keep this simple. I wouldn't -- you've said to  
18 the effect don't spend a lot of time and money on this.

19 THE COURT: It's not -- it may -- it's quite  
20 possible that three sets of professionals can make three  
21 different legal arguments based upon their assessments of  
22 the facts. So I don't have a problem with the fact that  
23 they each take a different assessment of the facts. But my  
24 problem is, with some very minor exceptions, it doesn't  
25 really strike me as an expert assessment because there's no

1 real expert analysis here that helps me.

2 MR. GENENDER: Your Honor --

3 THE COURT: And on top of that, while experts are  
4 certainly entitled to rely on facts, where experts rely on  
5 other experts' testimony without vetting it, I have a  
6 problem, too. And that's where they rely on the Tiger  
7 reports and other appraisals.

8 MR. GENENDER: So, Your Honor, I think that the  
9 point that you're making is really the point we were making  
10 in our June 27th response and reply papers, that we think  
11 this motion, these motions could actually be decided on the  
12 papers themselves. Because as it relates to the actual  
13 source documents necessary to make this determination, we  
14 submit they're actually in this small demonstrative before  
15 you in that you have -- for petition date, borrowing base,  
16 work from there. We had the sale. And so what are the  
17 tensions, Your Honor? There's really three tensions in this  
18 whole dispute. And one is how do you value the inventory  
19 and should a fair market analysis be applied to it.

20 THE COURT: Okay. I'm going to interrupt you  
21 because we not getting -- but I think -- cutting to the  
22 chase, although I'll hear counsel for the second  
23 lienholders. My preliminary take on this motion, which may  
24 well be my final take on it, is that I am giving very little  
25 weight, notwithstanding my respect for all three of the

1 experts, to their testimony as expert testimony. In other  
2 words, this is not a case where I would say in a complicated  
3 matter that requires expert financial analysis. I find the  
4 experts credible and their analysis persuades me that this  
5 is the value, because it's not that type of analysis. It's  
6 primarily a legal analysis based on facts that they have  
7 been given and other expert analysis they've been given that  
8 they didn't, as far as I can see, vet in any way.

9 So I'm not going to grant the motion, but if  
10 there's any doubt about it, either for the parties appearing  
11 in front of me today on appeal, I'm really not granting  
12 these reports the type of weight that I would give a  
13 valuation testimony where I would listen to cross-  
14 examination on the margins but obviously accept a lot of  
15 what the expert is telling me as true expert analysis.

16 MR. GENENDER: So then Your Honor I can ask so  
17 that we're most efficient with your -- our time here when  
18 evidence is put on, we do submit that some of these issues  
19 that they're opining on are legal assumptions that the court  
20 can make from documents to wit are letters of credit 1L debt  
21 or not? And --

22 THE COURT: I think that's true.

23 MR. GENENDER: And we'll just handle it in cross-  
24 examination, and I'll be as efficient as I can be.

25 THE COURT: Okay. In other words, it crosses your

1 opportunity and Mr. Moloney's and Mr. Fox's and everyone  
2 else's opportunity in essence to have oral argument with the  
3 expert or through the expert.

4 MR. GENENDER: And if I hit a -- and I would ask  
5 as an indulgence from the Court, if I hit an area that you  
6 think is -- you don't need testimony on because you think  
7 it's a legal matter, I would ask you just to let me know.

8 THE COURT: Okay.

9 MR. GENENDER: Thank you, Judge.

10 THE COURT: Well, and that includes -- I mean,  
11 this -- it starts with the goose, it starts with the gander.  
12 Interpretation of the reach of the second lien, for example,  
13 is a pure legal issue. It's not a factual issue. You know,  
14 does it apply to cash, does it apply to pharmacy scripts, et  
15 cetera. I think the experts are generally -- the three  
16 experts for the second lienholders are generally consistent  
17 in saying that that was just an assumption that they were  
18 given by Counsel. But, you know, those obviously are not  
19 worth cross-examining on. That's a legal point.

20 MR. MOLONEY: Thank you, Your Honor. And, Your  
21 Honor, I have a handout too for -- if I may approach the  
22 bench?

23 THE COURT: Yes.

24 MR. MOLONEY: With copies for (indiscernible). I  
25 think there's a qualitatively different motion which I think

1 Your Honor just granted (indiscernible), which is, Your  
2 Honor, I understand I'm not going to reargue the first part  
3 which you ruled. I would make a few observations.

4 One is that in all the cases that we looked at,  
5 and I might have read a million cases involving 507(b) and  
6 also cases where you value property for 506. Courts  
7 invariably have relied on expert testimony for valuation  
8 questions. And I think that there are really two pivotal  
9 valuation questions, and almost everything else is legal.  
10 The two pivotal valuation questions are what was the value  
11 of our collateral as a petition date. I think that is an  
12 appropriate topic for expert testimony in terms of valuing  
13 the inventory. I think everything else is just legal  
14 questions, what's included and what's not. And I think this  
15 is --

16 THE COURT: That's fair, but these reports  
17 basically rely on the company's books and records and don't  
18 provide any expert analysis of them as far as I can see or  
19 rely on a separate appraisal that was done shortly before  
20 the petition date, or proposals that were made without  
21 actually evaluating the inventory and receivables. Which is  
22 understandable, because receivables and inventory are -- I  
23 mean, they could question the assumptions, whether it's at a  
24 discount or not and how you do them, but they pretty much  
25 just accept the books and records or critique them as a

1 lawyer would do.

2 MR. MOLONEY: Well, that's not actually true, Your  
3 Honor.

4 THE COURT: Okay.

5 MR. MOLONEY: And I think that's why I thought it  
6 would be better to do this later. Because for example, my  
7 witness, Mr. Schulte, provides almost no reliance, if any,  
8 on Tiger and is relying on the actual performance of the  
9 company by looking at what they did when they actually sold  
10 the inventory.

11 THE COURT: But that's the facts. And I can rely  
12 on that, too. You could show me that fact.

13 MR. MOLONEY: And also applying the issue which  
14 was really the defining question in Sabine, which I know  
15 Your Honor is familiar with because you're involved in  
16 mediating as to what is the proper 4 wall EBITDA analysis  
17 and what that entails and what expenses are picked up by  
18 that. And that's normally the province of an expert.

19 THE COURT: That's fair. There were tiny pieces  
20 of these declarations that have some expert element to them.

21 MR. MOLONEY: They were tiny, but they were  
22 actually important in terms of I think the tableau, Your  
23 Honor. But that's for -- but anyways, I'm not going to  
24 reargue any of that because essentially --

25 THE COURT: I'm not excluding these declarations,

1 I'm just telling you that I think I can navigate through  
2 what is real expert testimony that's helpful and testimony  
3 that really isn't expert testimony.

4 MR. MOLONEY: So let's now move to the second.  
5 And it's I think a categorically different in limine motion.  
6 And as I said, I think Your Honor already granted half of  
7 it, which is that we don't think it's appropriate for any  
8 lay witness to be telling you as to what's included or not  
9 included as a legal matter in our collateral package. I  
10 think Your Honor was going to make that determination about  
11 the legal argument. But none of the witnesses are qualified  
12 to help you with that.

13 THE COURT: Right.

14 MR. MOLONEY: The second question is -- and this  
15 is whether they have a basis for their alternative theory of  
16 value, which is that when this case started, you recall what  
17 they filed. And (indiscernible) motion which then got  
18 converted to a 3012 motion. And now we have the burden of  
19 proving what our secure claim was. But they've continued  
20 with a basic assumption that you look at what the inventory  
21 supposedly was sold at under the APA, which they claim was  
22 85 cents. And that's the value for the inventory. And that  
23 is a key driver of value in this case that involves maybe  
24 \$300 million. So it's -- of our potential deficiency, \$300  
25 million was picked up on this item, this 15 percent discount

1 from book value for the inventory. And that's all  
2 predicated, as the slide deck I had showed you, it's all  
3 predicated on Mr. Griffith's reading of the APA or  
4 alternatively his reading of negotiations -- confidential  
5 negotiations. Communications went back and forth between  
6 the parties basically two or three weeks before the final  
7 bid was made. And that -- all said they were not bids, that  
8 they were not intents to bid, and they were basically  
9 designed to -- I'm not going to get into the commentary, but  
10 none of them related to the actual bid that was actually  
11 accepted by the (indiscernible), and none of them relate to  
12 the APA.

13 So the question is can they rely on that evidence  
14 at all and that they properly interpreted the APA at all.  
15 And that's a purely legal question I think for Your Honor.  
16 And we've teed it up in the slide deck, which is basically -  
17 - if you look at --

18 THE COURT: Okay, so I understand that point. And  
19 I think that first of all, are all the documents that -- I  
20 think I know the answer to this. But are all the documents  
21 that Mr. Griffith refers to in his declarations in the  
22 record as admitted exhibit?

23 MR. MOLONEY: Subject to this motion.

24 THE COURT: Well --

25 MR. GENENDER: No, that's not true.

1 THE COURT: I mean, I have a bunch of agreed  
2 exhibit books.

3 MR. GENENDER: Many of them are, Your Honor. Some  
4 of the backup, some of the actual underlying records are  
5 attached to his most recent declaration but are not yet --

6 THE COURT: Okay. Is that the parol evidence?

7 MR. GENENDER: No, no.

8 THE COURT: No?

9 MR. GENENDER: Those are company records -- those  
10 are -- those are company records that he used to rely upon  
11 for some of his calculations of expenses.

12 MR. MOLONEY: Your Honor, in specifically  
13 paragraph 5 of his most recent declaration -- paragraphs 15  
14 to 16 of his most recent declaration, and from the exhibit  
15 list, the exhibits would be Exhibits -- well, the ones  
16 (indiscernible) -- the exhibits with the --

17 THE COURT: So we're dealing with his second  
18 supplemental declaration.

19 MR. MOLONEY: Right --

20 THE COURT: And what paragraphs? I'm sorry.

21 MR. MOLONEY: Paragraphs five to ten and 15 and  
22 16. I think you already ruled on 15 to 16, so we're going  
23 to talk about five to ten.

24 THE COURT: So eight refers to an ESL  
25 presentation.

1 MR. MOLONEY: Right. And then these are joint  
2 exhibit.

3 THE COURT: And nine is also.

4 MR. MOLONEY: Right.

5 THE COURT: The rest -- the other paragraphs just  
6 refer to the outside purchase agreement.

7 MR. MOLONEY: Correct, which we had no issue with.

8 THE COURT: Okay, so --

9 MR. MOLONEY: It's Exhibit 8 and Exhibit 9.

10 THE COURT: But those two ESL presentations are  
11 not yet in the record.

12 MR. MOLONEY: Correct. Or they're in the record  
13 subject to this motion, Your Honor.

14 THE COURT: Subject to objection.

15 MR. GENENDER: Actually, my understanding is they  
16 were a part -- they were admitted as jointly admitted.

17 THE COURT: Well, that was my question.

18 MR. GENENDER: They were. And that's what I was  
19 confirming. They absolutely are. (indiscernible).

20 MR. MOLONEY: Your Honor, we agreed and put a  
21 footnote at the beginning of this thing of what we submitted  
22 as joint exhibits which says -- and this was discussed.  
23 "The parties reserve the right to argue the relevance of any  
24 joint exhibit and to argue the joint exhibit is improper  
25 parol evidence." What could be more clear than -- and this

1 (indiscernible) was negotiated and agreed for exactly this  
2 purpose, so this would not happen.

3 THE COURT: Right. So that I'll deal with when  
4 he's on the stand. I don't think I need to deal with this  
5 on this point on motion in limine.

6 MR. GENENDER: Your Honor, I don't --

7 THE COURT: I want to understand the Debtor's  
8 argument and how it ties into the APA. If it completely is  
9 based on the APA, then I will grant your motion because the  
10 APA speaks for itself.

11 MR. MOLONEY: Right. But the APA also has --

12 THE COURT: If it's basically more of like a  
13 context argument, then I might, depending on the basis for  
14 your objection at that point, hear your objection as to  
15 relevance and the like. But --

16 MR. MOLONEY: Well, the APA does have a complete  
17 agreement which prohibits exactly --

18 THE COURT: Well, no, but --

19 MR. MOLONEY: -- going into making assumptions.

20 THE COURT: This isn't -- that's why I say if  
21 they're relying on just saying that the APA speaks for  
22 itself, then I don't need -- then I can't hear the parol  
23 evidence.

24 MR. MOLONEY: But their argument is, Your Honor,  
25 at bottom is this was sold under the APA to us for 85 cents,

1 the inventory. And the APA says --

2 THE COURT: But if that's -- that may well be the  
3 case when they get them on the stand. And I've heard their  
4 overall argument. To me it's a little opaque at this point.  
5 You may be right, in which case I won't admit it, those two  
6 exhibit.

7 MR. MOLONEY: Thank you, Your Honor.

8 THE COURT: Okay. Okay. So I'm assuming we're  
9 going to go ahead with the 507(b) issue first where the  
10 second lien creditors have the burden of proof. So I think  
11 it's their time to start.

12 MR. MOLONEY: Yes, Your Honor. And we would call  
13 Mr. Schulte to the stand.

14 THE COURT: Okay. Come up here, sir. Just have a  
15 seat over there.

16 MR. SCHULTE: Morning.

17 THE COURT: Morning. Would you raise your right  
18 hand, please? Do you swear or affirm to tell the truth, the  
19 whole truth, and nothing but the truth, so help you God?

20 MR. SCHULTE: Yes, sir.

21 THE COURT: Okay. And it's S-c-h-u-l-t-e?

22 MR. SCHULTE: Correct.

23 THE COURT: Okay. So Mr. Schulte, you have  
24 provided an expert report in this case. It actually appears  
25 twice in the exhibit book as it pertains to both of the

1 motions before me on a consolidated basis. But it's dated -  
2 - maybe it's not dated. In any event, you're familiar with  
3 that expert report, correct?

4 MR. SCHULTE: Yes, sir.

5 THE COURT: And sitting here today, you understand  
6 that this would be your direct testimony in these matters.  
7 Is there anything in --

8 MR. MOLONEY: Your Honor, do you have the  
9 declaration which is Tab 5 -- which is -- that should be --  
10 that should be what you have in front of you, declaration of  
11 Mr. Schulte.

12 THE COURT: It's his report, right?

13 MR. MOLONEY: It's broader than the report.

14 THE COURT: Okay. I'll get to that in a second.

15 MR. MOLONEY: It's attached to the report. But  
16 you should have the entire I think declaration --

17 THE COURT: As far as the expert report is  
18 concerned which is referred to in your declaration, sitting  
19 here today, would continue to be your expert testimony in  
20 this case?

21 MR. SCHULTE: Yes. I filed an amended report  
22 which cleared up some really insignificant factual changes.

23 THE COURT: So except for those changes.

24 MR. SCHULTE: Yes.

25 THE COURT: And you would stand by that. And then

1 as far as your declaration is concerned, that would also  
2 continue to be your testimony on direct in this case? Is  
3 there anything you wish to change in that?

4 MR. SCHULTE: Yes, sir.

5 THE COURT: I'm just getting that in front of me.  
6 All right. So --

7 MR. MOLONEY: Can I ask one housekeeping question?  
8 Just for ease of Your Honor, it may make sense for them to  
9 cross him on all issues including 506(c). Rather than have  
10 him come back again, I would think -- but we'll do whatever  
11 Your Honor thinks makes sense.

12 THE COURT: That's right. So you can go ahead  
13 with cross.

14 MR. GENENDER: Absolutely, Your Honor. That's how  
15 we were planning to proceed.

16 Your Honor, I have a notebook for the Court and  
17 for the witness, for this witness.

18 THE COURT: Okay.

19 MR. GENENDER: (indiscernible)?

20 THE COURT: Sure.

21 DIRECT EXAMINATION OF DAVID SCHULTE

22 BY MR. GENENDER:

23 Q Good morning, Mr. Schulte.

24 A Good morning.

25 Q You have in front of you a notebook that has some

1 documents in it. And you should also have a very skinny  
2 document that has -- it's entitled Debtor's 507(b), July 23  
3 Hearing Demonstratives and Excerpts. Do you have that as  
4 well?

5 A I have both.

6 Q Okay, thank you very much. Mr. Schulte, this is your  
7 first engagement that has involved an analysis of 507(b)  
8 claims, correct?

9 A That is correct.

10 Q This is your first engagement that has involved an  
11 analysis of 506(c) surcharges, correct?

12 A That is correct.

13 Q You issued a report on behalf of ESL on June 18th,  
14 2019, correct?

15 A I don't have the date in front of me, but I will take  
16 your word for it.

17 Q Thank you very much. You were deposed on June 19th,  
18 early Saturday morning. Do you recall that?

19 A I remember.

20 Q Okay. And you amended your report on July 18th, 2019,  
21 last Thursday, correct?

22 A That's correct.

23 Q Your analysis in both reports applies two  
24 methodologies, one to go-forward inventory and a second  
25 different methodology to the GOB stores, correct?

1 A That is correct.

2 Q And looking at -- if you look in the notebook,  
3 Paragraph 30 of your declaration, if you can get there,  
4 please. I'm sorry, Page 30 I should say. I'm looking at an  
5 ECF number at the top.

6 A Are we talking 30 of 71?

7 Q Yes. Yes, 30 of 71. Thank you. Do you have that in  
8 front of you?

9 A I do.

10 Q And that's what's reflected there, is that right? You  
11 have a book value for -- you show a book value -- actually,  
12 turn to Page 31 of your report. You show a book value for  
13 go-forward stores of 2.073 billion. Do you see that?

14 A I'm not sure exactly what you're directing me to.

15 Q Upper-right-hand corner, Page 31 of 71, in a box. The  
16 page numbers are in the middle top center of each page, Mr.  
17 Schulte. 31 of 71.

18 A Thank you.

19 Q You bet. Let me know when you're there.

20 A Yes, sir.

21 Q You use book value for go-forward stores and net retail  
22 value for the GOB stores, is that right?

23 A That is correct.

24 Q Your original report in June miscalculated the starting  
25 values for these values for these numbers, which you

1 corrected last week. Is that right?

2 A Well, Excel did it. I didn't do it.

3 Q So it was Excel's fault?

4 A Yes.

5 Q Okay. In other words, it was corrected by you last  
6 week?

7 A That is correct.

8 Q Okay. I don't get to examine Excel. You're the best  
9 I've got. Okay?

10 A Yeah, I'm happy to fill in.

11 Q Okay. For go-forward inventory, the number you use,  
12 2.074 billion rounded, is the book value of all inventory  
13 less the GOB inventory, is that right?

14 A Yes, sir.

15 Q And while you considered various approaches, you  
16 applied the book value to the go-forward stores rather than  
17 the net retail value because, as you put it, the book value  
18 was the most conservative approach. Is that right?

19 A That was one reason.

20 Q Okay. But you report on Page 30 actually says -- the  
21 page before, the second paragraph on the bottom, "Because it  
22 is the most conservative approach." Do you see that?

23 A Yes, I do.

24 Q Those are your words, right?

25 A Yes. You're ignoring the rest of what I wrote, but

1 yes.

2 Q Okay. To calculate net retail value, you applied a 0.7  
3 percent 4 wall EBITDA margin. Is that right?

4 A Yes, sir.

5 Q And that resulted in a net value of inventory of 2.088  
6 billion?

7 A That is correct.

8 Q Which is \$14 million higher than your book value,  
9 correct?

10 A In round numbers, yes.

11 Q And is it fair to say that the 4 wall EBITDA margin  
12 does not include corporate overhead?

13 A That is correct.

14 Q Is it also fair to say that if corporate overhead were  
15 included, the \$14 million difference between the net retail  
16 value and the book value would be erased?

17 A I don't know exactly how you're doing that.

18 Q Well, you'd agree that corporate overhead would be more  
19 than \$14 million, wouldn't it?

20 A You're conflating a number of things in getting there.

21 Q Well, is your conclusion that the book value is the  
22 most conservative approach relies on your assumption that  
23 it's appropriate to exclude corporate overhead from your  
24 calculation of net retail proceeds. Is that right?

25 A Not really.

1 Q Your figure that you're relying upon --

2 A What I'm saying is corporate overhead has been  
3 contributed to by the retail value of the inventory.

4 Q Mr. Schulte, I'm going to ask you to look at, in your  
5 notebook, Paragraph 10 of the common brief that the parties  
6 filed last week. And that is going to be -- bear with me.  
7 It's going to be the tab that says 4570 in the book, which  
8 is the docket number.

9 A It's the one where you have highlighted some things in  
10 yellow?

11 Q Yes, it is. It absolutely is. You're in Paragraph 10  
12 on Page -- Paragraph 10 on Page 10 of that brief. Do you  
13 see the highlighted language where it says, "Because the  
14 gross profits generally from inventory sales, which the  
15 Debtor's analysis ignores, funded the cost of achieving a  
16 return slightly higher than the inventory book value, the  
17 Debtor's book value already takes into consideration all of  
18 the direct costs necessary to sell and maintain the  
19 inventory during these cases." Do you see that statement by  
20 the second lienholders?

21 A It takes into account, yes. Because these goods are  
22 sold at a profit.

23 Q And if you look, sir, at Paragraph 35 of your  
24 declaration, which is Page 16 of 71 in the document we were  
25 just in a moment ago.

1 A My declaration, got it. Hold on.

2 Q In Paragraph 35 on Page 16 of 71 you state, "As  
3 indicated above, my calculations already take into  
4 consideration all of the direct costs necessary to sell and  
5 maintain the inventory during the bankruptcy cases,  
6 including store-level employee payroll, rent, utility, and  
7 telephone expenses, advertising, and security services." Do  
8 you see that?

9 A Which paragraph? In 16 of 71 --

10 Q The second sentence of Paragraph 35.

11 A Yes.

12 Q And you previously testified that the book value does  
13 not include any of the 4 wall costs of the go-forward  
14 stores, correct?

15 A No.

16 Q You have your deposition in front of you and the -- the  
17 notebook in front of you. If you can turn to your  
18 deposition to Page 100. Do you have Page 100 in the  
19 deposition in front of you? Line 6?

20 A Yes.

21 Q Okay. My question, "That book value does not include  
22 any 4 wall costs of those stores, correct?" What's your  
23 answer?

24 A Well my answer is it effectively does. It isn't  
25 arrived at that way when it's reported.

1 Q Well, Mr. Schulte, respectfully, I'm just asking you to  
2 read the answer in the deposition.

3 A All right. My answer says, "That is correct."

4 Q And then I say, question, "It does not include  
5 corporate overhead, correct?" And your answer is?

6 A "Correct."

7 Q Question. "And using book value does not account for  
8 the costs associated with selling the inventory, correct?"  
9 Could you read your answer, please?

10 A Again --

11 Q Can you read your answer, please?

12 A I will read to you the answer here, but it's a very  
13 incomplete question. The answer says, "Correct."

14 MR. MOLONEY: But continue to read the whole  
15 answer.

16 MR. SCHULTE: I'm sorry?

17 MR. MOLONEY: Read the whole answer.

18 Q Mr. Schulte, I'm happy for you to read the whole  
19 answer. I'm not hiding a thing.

20 A I've got it. This is replying to --

21 Q Mr. Schulte, I'm just asking you to read the answer to  
22 the question on Line 16.

23 A "Correct. The accounting convention is the inventory  
24 as recorded as the lower of costs for realizable value."

25 Q Mr. Schulte, rent and utilities -- are you saying rent

1 and utilities aren't 4 wall costs?

2 A They are.

3 Q You previously testified that book value does not  
4 account for the costs associated with selling the inventory,  
5 correct?

6 A Not explicitly unless there's a profit.

7 Q And it doesn't include corporate overhead. We've  
8 established that, right?

9 A Yes.

10 Q You also testified that you did not know if book value  
11 accounts for the costs associated with storing the  
12 inventory, correct?

13 A I definitely answer that way.

14 Q That you don't know.

15 A That is correct.

16 Q The book value includes \$300 million of ineligible  
17 inventory that's not included in the borrowing base  
18 certificate, correct?

19 A I didn't spent much time on the borrowing base.

20 Q That was my next question. If you can turn to the  
21 smaller notebook, Mr. Schulte, the tab that says Borrowing  
22 Base Certificate.

23 A Yes.

24 Q All right. This is part of -- I believe it's Exhibit  
25 5, Joint Exhibit 3 that's in evidence. It's just Page 3 of

1 that document. It says -- do you see in the lower-right-  
2 hand corner it says 3 of 35?

3 A Three of 35?

4 Q Yes. And you see there's a total stock price ledger of  
5 \$2.69 billion and a net eligible inventory number of \$2.391  
6 billion. Do you see that?

7 A Your excitement is exceeding my ability to turn pages.

8 Q I'll try and contain myself.

9 A Borrowing base certificate starts for me on Page 4 of  
10 36.

11 Q Yes, at the top. That's right, on the top. Yes.

12 A So when you said Page 3 you were just kidding.

13 Q I was looking in the lower-right-hand corner.

14 A Ah, yes, sir.

15 Q Do you see the total stock ledger inventory figure and  
16 the net eligible inventory figure and the fact that the  
17 latter is about \$300 million less?

18 A Yes.

19 Q You testified in your June 29th deposition, 11 days  
20 after issuing your opinion in this case, that that was the  
21 first time you'd seen this borrowing base certificate,  
22 correct?

23 A If that's what I said. I've seen it since.

24 Q And that was the first time you saw it, correct?

25 A I think so.

1 Q You didn't consider the fair market value paid for the  
2 second lien collateral as part of the February sale in this  
3 case, did you?

4 A Would you ask that again?

5 Q Sure. You didn't consider the fair market value paid  
6 by the buyers for the second lien collateral as part of the  
7 February 2019 sale, correct?

8 A Well, there was nothing in the asset purchase agreement  
9 that delineated the value of the inventory.

10 Q Did you perform an analysis of the fair market value of  
11 the sale of the -- excuse me. Did you perform any analysis  
12 of the fair market value of the second lien collateral sold  
13 as part of the going concern sale in February 2019?

14 A Yes, of course. That's the whole of my opinion, or a  
15 good part of it.

16 Q What analysis did you perform of the value of the  
17 second lien collateral as a -- that was sold in the February  
18 2019 sale?

19 A Can I go back to the source materials?

20 Q Well, I'm just asking if you performed an analysis of  
21 the value --

22 A Yes. We actually -- yes, sir.

23 Q -- of that collateral on -- as of the sale date,  
24 February, 2019?

25 A As of the sale date?

1 Q Yes.

2 A Of the petition date, yes. Of the sale date, I don't  
3 know that it was specifically done.

4 Q Well, we're dealing with two dates. There's the  
5 petition date, October 15, 2018, and the sale date, which I  
6 believe is February 11, 2019. Did you perform a fair market  
7 analysis of the value of the 2L collateral as of February  
8 11, 2019? Because if you have, I haven't seen it.

9 A I don't know that I did.

10 Q You didn't did you?

11 A I don't know that I did.

12 Q You can't recall one, can you?

13 A That's correct.

14 Q Did you perform a fair market value analysis of the  
15 value of the second lien collateral as of the petition date,  
16 October 15, 2018?

17 A Yes.

18 Q And using fair market value?

19 A Yes. That's what the report is about. It's imprecise  
20 because there were no -- well, the backup material was dated  
21 a few days different from the petition date. We have on the  
22 petition date the Debtor's declaration of what its higher  
23 inventory was using the book value.

24 Q In valuing -- I want to now talk about the GOB store  
25 inventory valuation, which is also on Page 30 of your

1 declaration. Page 30 of 71, if we can get there. Here you  
2 applied the net retail value approach, correct? Mr.  
3 Schulte, you've got to go to the other notebook, the larger  
4 notebook. It's in your declaration. It's the tab before  
5 that, sir.

6 A Thirty of 71.

7 Q Yes, sir.

8 A I have it.

9 Q And before I ask you about that, Mr. Schulte, let me  
10 take one step back and ask you a different question. Mr.  
11 Schulte, did you do any independent analysis to vet any of  
12 the appraisals upon which you relied in offering any  
13 opinions as to the value of the second lien collateral as of  
14 the petition date?

15 A By vetting do you mean did we go out and take a full  
16 physical inventory? No.

17 Q That would be -- yeah. What did you do to verify the  
18 accuracy or independently confirm that the appraisals upon  
19 which you replied were accurate?

20 A The -- first of all, we didn't really rely much if at  
21 all on other people's reports on Tiger or Abacus or  
22 whatever. We relied on the Debtor's general ledger more  
23 than anything else.

24 Q You're on Page 30 or 71 of your declaration. For the  
25 GOB stores, you took a book value of the GOB inventory and

1 applied a 95.6 percent net recovery percentage to it. Is  
2 that right?

3 A Yes.

4 Q And that 95.6 percent does not include any corporate  
5 overhead, only store level costs. Correct?

6 A Yes.

7 Q And if I go to Page 31 where you have those two -- did  
8 you make any adjustment to the book value of the go-forward  
9 store inventory in coming up with your valuation of the  
10 collateral?

11 A Well, we explored several ways to adjust it. In the  
12 end we started with Mr. Griffith's number.

13 Q Okay. Mr. Griffith you understand applied a fair  
14 market value, the 85 percent number, to the --

15 A No, that's different. That's a different point.

16 Q Let me finish my question. Okay?

17 A Okay.

18 Q You understand Mr. Griffith took -- may have started  
19 with a similar number to you, but he applied a fair market  
20 value percentage of 85 percent to that number. Correct?

21 A He used the number of 85 percent as a proxy for fair  
22 market value.

23 Q Okay. And you understand that -- but you did not use  
24 any proxy for fair market value in terms of a discount of  
25 the percentage of the book value of go-forward stores,

1 correct?

2 A Well, that's not quite right.

3 Q What discount did you take?

4 A Well, we used the resulting profitability of the  
5 stores. If you notice, there are three different approaches  
6 we took, if I may, to the value of the inventory. We used a  
7 gross retail approach, a net retail approach, and book  
8 value. In book value for the going-forward stores, we made  
9 no adjustment.

10 Q Thank you. Mr. Griffith adjusted 85 -- took a 15  
11 percent reduction. You took a zero percent reduction.

12 Correct?

13 A That's correct.

14 Q And on that amount of inventory, that creates a  
15 disparity just on that, between what you did and what Mr.  
16 Griffith did, of about \$375 million, doesn't it?

17 A It's a substantial number.

18 Q \$375 million approximately, right?

19 A I never quantified it that tight, but yes, I think  
20 that's about right.

21 Q All right, thank you. You included in your -- let me  
22 just step ahead. Mr. Schulte, you come up with a total  
23 collateral value for the second liens of \$2.928 billion. Is  
24 that right?

25 A Yes, sir.

1 Q And that includes not just what we went through with  
2 GOB inventory and go-forward stores adjusted only for the  
3 95.6 percent to the GOB sales -- GOB stores. That portion  
4 was approximately 2.664 billion, correct?

5 A The inventory number within that is 2.664.

6 Q Yes. And your -- and then you added to that credit  
7 card receivables, cash, scripts, and pharmacy receivables,  
8 is that correct?

9 A And cash.

10 Q Yes, I said cash. Yes.

11 A Yes, sir.

12 Q Okay. And your -- what is your basis to include cash,  
13 scripts, and pharmacy receivables as 2L collateral?

14 A Well, I was instructed by counsel about the status of  
15 those asset accounts in the security agreement, and I read  
16 the security agreement. And I know that cash is not  
17 explicitly included in the second lien collateral at all.  
18 It is in the first lien collateral. And the other items are  
19 either proceeds of second lien collateral or are  
20 specifically included.

21 Q Mr. Schulte, you testified in your deposition that it  
22 was not your task to go through and either enumerate or  
23 include or exclude items that were in the second  
24 lienholder's collateral package, correct?

25 A Well, the work necessarily includes -- that's a

1 judgement about what counts. And the judgement was informed  
2 by the advice of counsel.

3 Q Did you do anything independent to determine, other  
4 than take counsel's word, whether -- to determine whether  
5 scripts, pharmacy receivables, and cash should be part of  
6 the 2L collateral package?

7 A No.

8 Q Thank you. And you have not -- you testified you have  
9 not studied the underlying security or credit agreements,  
10 correct?

11 A I've read the security agreement.

12 Q Yes. But you said you certainly had not studied it,  
13 correct?

14 A I don't know what difference the word read and studied  
15 makes, but if it makes you happy.

16 Q I'm just looking at your testimony. I asked you, "Have  
17 you studied them?" And you answered no.

18 A At that point --

19 Q Do you recall that?

20 A At that point I had not read or studied the security  
21 agreement. I have since.

22 Q Okay. The number you add for credit card receivables  
23 was not the number that is contained in the borrowing base  
24 certificate, correct?

25 A That might well be.

1 Q Well, the number on the borrowing base certificate, if  
2 you can turn to it, it's \$54.8 million.

3 A Yeah, well, there are -- yes. As with any borrowing  
4 basis, there are exclusions.

5 Q The number on the borrowing base certificate, which  
6 also includes the total stock ledger book value amount that  
7 you started with --

8 A Yes.

9 Q -- the number is 54.8 million. And you use 64.2  
10 million, a difference of 9.4 million, correct?

11 A Yes. The documents have different purposes, but yes.

12 Q Thank you. So just to address this, Mr. Schulte, if  
13 you add it up, that took \$9.4 million, the difference  
14 between the number you used for credit card receivables and  
15 the number on the borrowing base certificate, and then added  
16 up the figures you used for cash, scripts, and pharmacy  
17 receivables, that adds up to a number in excess of \$200  
18 million, correct?

19 A Okay.

20 Q If I represented to you that it's \$209.6 million, do  
21 you have any basis to disagree with me?

22 A I would trust you.

23 Q Thank you. If you will look in the skinny little  
24 notebook at the very first demonstrative, it says 507(b)  
25 Diminution Calculations. Do you have that page in front of

1 you?

2 A No. I have the demonstratives.

3 Q Okay. If you will turn to the very first tab that says  
4 507(b) Chart.

5 A Yes, sir.

6 Q Okay? And there's a line in there for you. The second  
7 one in. Do you see that?

8 A Yes.

9 Q And do you see your total collateral number in the  
10 middle of the page, the 2.928 billion?

11 A Yes, sir.

12 Q And you see that it's approximately \$595 million more  
13 than Mr. Griffith's calculation, correct?

14 A Yes, I do.

15 Q And would you agree with me that we just went through  
16 the bases for those differences, meaning the \$209.6 million  
17 of items you included in 2L collateral that he did not and  
18 the fact you didn't make an adjustment to the value of the  
19 inventory along the lines of what Mr. Griffith did. Would  
20 you agree with those, the two bases for that \$595 million  
21 difference?

22 A Almost. We did make a one percent adjustment.

23 Q A one percent adjustment. I agree. You're right, sir.  
24 You made a 95.6 -- you made a 4.4 percent adjustment on the  
25 \$617 million number and a zero percent adjustment on the --

1 A Yes, I certainly agree with you that the 85 percent  
2 number has no status in our work.

3 Q Thank you. Mr. Schulte, are you offering an opinion as  
4 to whether the first lien debt includes approximately \$395  
5 million of letters of credit?

6 A Well, you said first lien debt?

7 Q Let me ask you, are you offering an opinion as to  
8 whether the approximately \$395 million of the two letters of  
9 credit would count as senior debt?

10 A If it was funded, I would agree.

11 Q You're offering that opinion that since they weren't  
12 funded, they shouldn't count as part of the 1L debt.

13 A Except for \$9 million that was funded.

14 Q Okay. And what is your basis for drawing a distinction  
15 as to whether -- based on whether it's funded or not?

16 A If the company went with a wheelbarrow full of cash to  
17 Citibank or whoever had written the letter of credit and  
18 said here is money to pay you back, they might have gotten a  
19 toaster, but they would have not gotten any other kind of  
20 response. The bank would have said you don't owe me this.

21 Q Mr. Schulte, are you aware that the \$271 million letter  
22 of credit was cash collateralized by ESL?

23 A Yes.

24 Q Are you aware --

25 MR. MOLONEY: Your Honor, that's not true. In

1 part we were. (indiscernible).

2 THE COURT: You could --

3 Q The second lienholders I should -- ESL and Cyrus.

4 A I know that there was cash collateral posted, and I  
5 think it was by ESL and Cyrus, I think.

6 Q And are you aware that as to the 1L letter of credit  
7 facility for \$123.8 million that there was a block on  
8 borrowing available under the ABL for that amount?

9 A I don't know specifically about that. My analysis of  
10 the LLCs went only as far as the amount that was actually  
11 owed. Contingent amounts and (indiscernible) amounts were  
12 not counted.

13 Q Did you consider any -- the treatment of those two  
14 letters of credit under the sale transaction under the APA?

15 A Not particularly because they didn't count.

16 Q Did you consider the fact that they were -- that they  
17 formed \$395 million of the \$5.2 billion purchase price?

18 A Yes.

19 Q Okay. And yet you don't consider them to be 1L debt?

20 A It was not live debt. It was the relief of a  
21 contingent obligation.

22 Q Mr. Schulte, do you have in the notebook in front of  
23 you Joint Exhibits 8 and 9? At the very back.

24 A I'm not sure. What tab is it? What is the tab? Oh,  
25 am I in the wrong notebook? Oh, sorry.

1 Q It's actually in the big notebook. It's in the big  
2 notebook at the very end. It should say -- the document  
3 should say JX-8 in the lower-right-hand corner.

4 (indiscernible). Mr. Schulte --

5 A Are you talking about -- excuse me. Let me just get it  
6 straight that we're on the same document.

7 THE COURT: It's in the spiral one.

8 MR. GENENDER: It's in the spiral one.

9 MR. MOLONEY: Your Honor, we object to reference  
10 to these documents on the grounds of it's parol evidence, it  
11 should not be considered.

12 THE COURT: Okay. What is your response on that?

13 MR. GENENDER: Your Honor, I'm -- my question is  
14 just to ask if he relied on the documents. That's all I  
15 want to find out.

16 THE COURT: All right, that's fair.

17 Q Let's use the --

18 A Are you on the ESL bid presentation? Is that your  
19 document?

20 Q Yes. Have you --

21 A I know about this, yes.

22 Q Does it form any basis for your opinions in this case?

23 A No.

24 Q Okay. What about the next document, Joint Exhibit 9,  
25 does it form any basis for your opinion in this case?

1 A No.

2 Q Did you consider any aspect of these documents,  
3 including the references to the two letters of credit that I  
4 just asked you about?

5 A No. Well, excuse me, did I consider? Yes, I  
6 considered, and yes, I rejected all of that stuff for the  
7 reason that I said, namely these were not live obligations  
8 in the ESL bid. It's an illustration that's a talking  
9 point. And the asset purchase agreement is in fact the  
10 deal.

11 Q Did you refer to the treatment to see how either of  
12 those lines of credit were treated in the actual APA?

13 A Yes, I looked at the sections of the APA, yes.

14 Q And if you will take a look at the small notebook, the  
15 little bound notebook in front of you.

16 A You've given me three, so let's not do it by size.

17 Q If you can turn to the last tab. It says JX-34.  
18 There's an excerpt from the APA. Sir, it's in the small  
19 notebook in front of you, the bound notebook. Last tab, it  
20 says JX-34. Do you have that?

21 A JX-034.

22 Q Yes, sir. And it's an excerpt --

23 A Page 42 of 1120?

24 Q Yeah, this is a three-page excerpt from the APA. You  
25 have that in front of you?

1 A I do.

2 Q All right. Do you see that on page 42 of 120 JX-34-  
3 125, there's a definition for LC facility consideration?

4 A Yes.

5 Q And it -- and that includes a definition that  
6 references the Citi LC facility of two -- and it says, "but  
7 in no event with respect to a principal amount of greater  
8 than \$271 million." Do you see that, in the parenthetical?

9 A Yes.

10 Q You'll turn to the next page which in the document  
11 skips from -- we were just on Page 21 of the APA; now we're  
12 going to Page 51 of the APA. Do you have that page in front  
13 of you?

14 A I do.

15 Q You see the cash component of \$1.408 billion  
16 highlighted?

17 A Yes, sir.

18 Q You understand that includes the ABL?

19 MR. FOX: Objection, Your Honor. The document  
20 speaks for itself.

21 THE COURT: Well, he did testify he considered  
22 this as part of his analysis, so I think it's fair game.

23 A Well, the ABL was discharged as part of this, so yes.

24 Q Okay. Do you know, Mr. Schulte, that the \$123.8  
25 million credit facility was rolled into any aspect of

1 Section 3.1 of the APA?

2 A Yes, it was an assumed liability.

3 Q Thank you. And if you turn to Page 52, the next page,  
4 under Section 3.1(c) -- I'm sorry, under 3.1(f), you'll see  
5 there's a specific demarcation item for the LC facility  
6 consideration. Do you see that?

7 A I do.

8 Q Thank you. You didn't do a calculation for any post-  
9 petition interest that would be a 1L obligation, did you?

10 A Not explicitly, no.

11 Q Did you do one implicitly?

12 A I don't (indiscernible). We did not specifically take  
13 into account post-petition interest.

14 Q And you're not disputing that there was post-petition  
15 interest associated with 1L debt --

16 A No. I'm saying it was irrelevant to the work we did.

17 Q Can I finish my question?

18 A Sure.

19 Q You're not disputing that there was 1L -- that there  
20 was post-petition interest on 1L debt from October --

21 A I do not dispute that.

22 Q And you didn't calculate it, did you?

23 A No.

24 Q And you don't have a basis to refute the \$34 million  
25 calculation that Mr. Griffith did, do you?

1 A I'm sorry; give me that one again.

2 Q You don't have any basis to dispute or refute the \$34  
3 million calculation that Mr. Griffith did for post-petition  
4 interest?

5 A Post-petition interest?

6 Q That's correct.

7 A Only to say that it's irrelevant to the work we did.

8 Q But you can't dispute the figure, can you?

9 A No.

10 Q Mr. Schulte, if you'll look back at the 507(b) chart,  
11 that's the first page of the spiral notebook. You see that  
12 you don't include in 1L the 2Letters of credit and the \$34  
13 million of first lien interest. Is that right?

14 A I see that.

15 Q And those add up to \$429 million. Would you accept  
16 that representation?

17 A I would accept that representation.

18 Q Thank you. I want to talk for a minute about 506(c)  
19 surcharges. Are you -- do you agree, Mr. Schulte, that at  
20 all times ESL favored a going concern sale in this case?  
21 Correct?

22 A I'm informed that that was the case.

23 Q You testified that ESL very much wanted to see a going  
24 concern sale, correct?

25 A Yes.

1 Q You'd also agree that ESL tried very hard not to have a  
2 full-scale liquidation, correct?

3 A Yes.

4 Q And you previously testified that you have not done an  
5 analysis of any of the expenses that the Debtors incurred  
6 between December 28th, which is when ESL submitted its first  
7 bid and February 11th, 2019, which is the day that the sale  
8 closed, correct?

9 A Which expenses are you talking about?

10 Q Any expenses that the Debtors incurred in furtherance  
11 of the going concern sale.

12 A We did not. We did not do that.

13 Q And you didn't do -- you understand Mr. Griffith did do  
14 a calculation of those expenses?

15 A I've seen that.

16 Q And you didn't -- you don't have a basis to disagree  
17 with his calculations of expenses incurred between January  
18 17th, the day the APA was signed, and February 11th, the day  
19 the transaction closed, correct?

20 A As I did, we did not evaluate that.

21 Q Or any other period of time relevant to this case,  
22 correct?

23 A Oh, no, that's not right.

24 Q Okay, so December 28th to February 11th, you didn't do  
25 a calculation of that period of time?

1 A Not during that -- no, not on that specific period of  
2 time.

3 Q And you didn't do one for the corresponding time Mr.  
4 Griffith did from January 17th to February 11th, correct?

5 A That's correct.

6 Q Want to go back. Mr. Schulte, is it your position that  
7 there were no expenses incurred by the Debtors that were  
8 reasonable and necessary and for the primary benefit of ESL  
9 in connection with the going concern sale? Is that your  
10 testimony?

11 A I don't -- no, I would not say that.

12 Q Okay. Good. You'd agree there are expenses incurred  
13 by the Debtors in furtherance of the going concern sale that  
14 were the primary benefit of ESL and were reasonable and  
15 necessary. Is that right?

16 A I don't think it's possible to know exactly what  
17 everyone at the corporate level or with counsel did in  
18 pursuit of the sale or in pursuit of recovery from second  
19 lien lenders.

20 Q You don't know that number, do you?

21 A No.

22 Q Would you defer to someone who was involved in the  
23 operation of the company?

24 A No. I wouldn't defer to anyone on the company side on  
25 this whole question of the charging lien.

1 Q Your client is ESL?

2 A My client is Cleary Gottlieb.

3 Q And you offered a report on behalf of ESL?

4 A Yes.

5 Q Have you asked anyone -- and you haven't asked anyone  
6 at ESL about any expenses incurred in furtherance of the  
7 sale by the Debtor --

8 A I didn't talk to anyone at ESL about anything.

9 Q Thank you. I want to go back -- so you still have the  
10 507(b) charge in front of you?

11 A I do.

12 Q All right. So your total 507(b) claim number that  
13 you're proffering is \$962.7 million. Do you see that?

14 A Yes.

15 Q And that is -- you understand the Debtors have a no --  
16 submitting there's no 507(b) charge, correct?

17 A Yes.

18 Q Okay. And they're actual -- the total that Mr.  
19 Griffith computes is negative \$60 million. Do you see that?

20 A Yes, I do.

21 Q So there's about a \$1,200,000,000 difference between  
22 your number and Mr. Griffith's number, correct?

23 A Yes.

24 Q And are the components of that that we've gone through  
25 in your testimony, Mr. Schulte, the fact you didn't make a

1 fair market value adjustment to the inventory?

2 A No.

3 Q Well --

4 A I didn't accept 85 cents.

5 Q Okay. You made a 1 percent adjustment; he made a 15  
6 percent adjustment.

7 A Yes.

8 Q Is that right?

9 A Yes.

10 Q That makes up about \$375 million of the difference,  
11 right?

12 A Yes. And the treatment of letters of credit, is the  
13 other big piece.

14 Q Well, let me go in my order, okay?

15 A Sure.

16 Q We're almost done. Thank you.

17 A Okay.

18 Q \$375 million for the fact you made a 1 percent -- only  
19 a 1 percent adjustment, correct?

20 A Yes.

21 Q \$210 million -- 209.6, because you included the items  
22 you did as 2L collateral that we talked about, right?

23 A Yes.

24 Q Cash, scripts, pharmacy receivables, and use the higher  
25 credit card receivable number, correct?

1 A That's a dispute between us, yes.

2 Q Yes. Plus \$395 million of letters of credit that you  
3 didn't include as 1L debt, correct?

4 A Yes.

5 Q Plus \$34 million of 1L interest that you didn't  
6 include, correct?

7 A Correct.

8 Q That adds up to the difference between your number of  
9 \$962.7 million and Mr. Griffith's number of negative \$60  
10 million?

11 A Yes.

12 MR. GENENDER: Thank you. Pass the witness.  
13 Thank you, Your Honor.

14 THE COURT: Okay. Let me just ask one question.  
15 It's probably better to ask it now. Mr. Schulte on -- you  
16 saw that chart there in front of you, the 507 calculation,  
17 and you see there's a item there of \$115.5 million for cash?

18 MR. SCHULTE: Yes.

19 THE COURT: You're familiar with the concept of  
20 tracing, where you trace cash to a particular asset that's  
21 sold?

22 MR. SCHULTE: I'm roughly familiar with it, Your  
23 Honor.

24 THE COURT: Did you do any tracing analysis?

25 MR. SCHULTE: No. We actually assumed that away.

1 THE COURT: Okay.

2 MR. SCHULTE: The -- may I continue?

3 THE COURT: Sure.

4 MR. SCHULTE: Our analysis by assumption said that  
5 the first thing creditors -- it's a much more global kind of  
6 a subtraction. We have value, we had first lien obligations  
7 --

8 THE COURT: I -- maybe my question was not clear  
9 enough. Did you trace the cash or do analysis to trace the  
10 cash to the second lien collateral that you were told by  
11 constituted the second lien collateral?

12 MR. SCHULTE: Not explicitly, no. We looked at  
13 the aggregate of the first lien obligations, deducted from  
14 the -- what we concluded was the value of the collateral and  
15 built into that is the assumption the first lien creditors  
16 would use the quickest assets first, which cash is the  
17 quickest. And in the -- so there's adding and subtraction.  
18 There's a lot of delineation of that 115.

19 THE COURT: Okay.

20 MR. SCHULTE: Or tracing, in your parlance.

21 THE COURT: Okay. All right. Go ahead with  
22 redirect.

23 MR. MOLONEY: You asked one question I was going  
24 to ask, Your Honor. Thank you.

25 THE COURT: Okay.

1 RE-DIRECT EXAMINATION OF DAVID SCHULTE

2 BY MR. MOLONEY:

3 Q Could you look at -- you still have that book in front  
4 of you of exhibits, Mr. Schulte --

5 A Sure.

6 Q If you go to page -- to Exhibit Number, looks like,  
7 4569 or ECF Number 4569 and to that Page 30 of 71 and 31 of  
8 71 which we were looking at before? It's in your report.  
9 So it's the -- it's really the first tab in the book here.

10 A ECF 4570?

11 Q Yeah, and it's Page 30 of 71 and 31 of 71. See that?

12 MAN 1: What page?

13 MR. MOLONEY: It's going to be Page 30 of 71 and  
14 31 of 71, which he was asked about on direct.

15 Q Do you have that in front of you, Mr. Schulte?

16 A I'm on a different tab. Hold on.

17 Q It's right in the book of -- the big black book.

18 A In ECF 4570, I don't --

19 Q Yeah --

20 A -- have any pages as high as 71.

21 Q 4569 --

22 A Aha. I'm sorry --

23 Q Page 30 of 71 -- 30 of 71.

24 A Okay. Yes.

25 Q And you recall being asked by Mr. Genender questions

1 about the paragraph that appears on Page 30 of 71 which is  
2 the last full paragraph on Page 30 of 71 which begins for  
3 the go-forward stores. You recall being asked questions  
4 about that paragraph?

5 A Under number four, summary of inventory --

6 Q Yes.

7 A -- evaluation?

8 Q The paragraph -- the second paragraph under number  
9 four?

10 A Yes.

11 Q You were asked a question about your testimony --

12 A Yes.

13 Q -- in your report about that you chose the most  
14 conservative approach. Can you tell us why you view that as  
15 most conservative approach for the going concern inventory?

16 A Yes. Conceptually, I would prefer the net retail  
17 value. But in doing it, it came out so close to the book  
18 value, number one. Number two, the number's much more  
19 discernible in terms of the book value, fewer assumptions  
20 you have to make. And number three, it was lower. For  
21 those reasons, we adopted the book value.

22 Q Was another reason related to replacement value?

23 A Yes.

24 Q And what was that?

25 A The book value derives from inventory purchases and the

1 prices that have to be paid for inventory. So, yes, it does  
2 speak to replacement value.

3 Q Okay. And can you explain why you chose a different  
4 number than book value for the going-out-of-business stores?

5 A Well, going-out-of-business stores have merchandise  
6 that is sold at a discount and relying on the book value to  
7 get at some notion of what that inventory was worth would be  
8 wildly wrong. And it also happened where the company has  
9 closed many hundreds of stores and has considerable  
10 experience on the realizations against inventory book value  
11 in those going-out-of-business sales. So we relied on their  
12 actual experience.

13 Q So that number, is that based on post-filing experience  
14 of the Debtor? Both the gross retail value and the net  
15 retail value?

16 A Principally, pre-bankruptcy experience.

17 Q Right. And did you verify that based on the post-  
18 bankruptcy filing experience?

19 A It's a consistent pattern.

20 Q So they basically have the same returns pre- and post-  
21 bankruptcy?

22 A The company has earned roughly 95 percent of book value  
23 in the liquidations of inventory in their closed stores.

24 Q Now, before they filed for bankruptcy, had the company  
25 contracted substantially?

1 A Oh, yes.

2 Q Approximately how many stores had they closed out even  
3 before they filed for bankruptcy?

4 A Well, once upon a time, they had 4,000 and at the time  
5 of the bankruptcy, it was down to 700-something. There were  
6 several hundred closed in the last few years before the  
7 Chapter 11 filing.

8 Q So this number reflects the experience over several  
9 years involving hundreds of stores, correct?

10 A That is correct.

11 Q Thank you. Now, why did you value the receivables at  
12 face?

13 A The -- this is not a business with a great many  
14 receivables. The receivables are mainly from credit card  
15 companies and the credit risk has been accepted by the  
16 credit card company. The accountants in ordering the  
17 company statements have accepted the company's accounting  
18 which treats credit card receivables as cash. They're very  
19 short term and they don't have credit exposure on them.

20 Q And can you explain to us, why did you include  
21 collateral that was considered excluded under the borrowing  
22 base certificate within your calculation of \$300 million  
23 difference that was alluded to by Mr. Genender?

24 A Well, they measure different things. The borrowing  
25 base calculation is something negotiated with the lender and

1 it has to do with the extent to which the lender is prepared  
2 to lend against inventory. It doesn't mean that excluded  
3 inventory is worthless.

4 Q Okay. And how, if at all, did you account for expenses  
5 that directly and primarily benefitted the 2L collateral  
6 during the case?

7 A There are two categories of expenses. The ones that we  
8 definitely count are the four wall costs, the costs of  
9 operating the stores. What's fuzzier is the costs at the  
10 corporate level, Weil Gotshal, for example. Sorry. Or  
11 other professionals or other things the company did. We  
12 don't have, with any precision, an accounting of those  
13 expenditures. We took into account the aggregate of  
14 expenditures that the company had but for direct -- primary  
15 and direct benefit to the second liens, we paid close  
16 attention to the expenses in the stores.

17 Q Now, for purposes of your analysis of net retail value,  
18 did you use the same accounting methodology that the company  
19 itself used in deciding whether to the stores were EBITDA  
20 positive?

21 A Yes.

22 Q And is that -- is there a common name for that form of  
23 accounting? Is that so-called four wall accounting?

24 A Oh, okay. I was going to say, it's called accounting.

25 Q Can you explain to me what is meant by four wall

1 accounting?

2 A Well -- and this is common among retailers. The  
3 measure -- the easiest thing to measure is what are stores  
4 spending, right, because each store is separately accounted  
5 for. Its revenues are separately accounted for. Its  
6 purchases of inventory are allocated to it as it takes them  
7 into the store, et cetera. So what is mean by four wall  
8 accounting is the profitability of a particular store and  
9 retailers use this by way of deciding which stores should be  
10 kept, which stores should be closed, et cetera.

11 Q So looking at, for example, at the chart on Page 31 of  
12 71, we're showing basically -- I did a math roughly, but  
13 it's over a \$700 million differential between the gross  
14 retail value and net retail value of the go-forward sales.  
15 You see that number?

16 A Yes.

17 Q What was that \$700 million used for?

18 A That's expense in effect of realizations on second lien  
19 collateral. Those are in-store expenses.

20 Q So, for example, what expenses are included within that  
21 category? Would payroll be picked up?

22 A Yes. Payroll and utilities.

23 Q Rent?

24 A Rent.

25 Q Security?

1 A Yes.

2 Q Advertising?

3 A All the normal expenses of running a store.

4 Q And they're picked up by that differential, right?

5 A Yes.

6 Q And similarly, for the going-out-of-business store, the  
7 delta between 734 and 590, that \$150 million approximately,  
8 that, too, would go to those types of expenses, correct?

9 A Yes. The company -- it shows that as going-out-of-  
10 business store expenses.

11 Q Now, in Mr. Griffith's analysis of -- to get to his  
12 \$1.4 billion, did he deduct any of this money?

13 A I didn't really spend a lot of time on what Mr.  
14 Griffith did. I looked at it. I didn't try and duplicate  
15 it.

16 Q Okay. Okay, I'll ask -- we'll have a chance to ask  
17 him, so don't worry about it. And I think -- by the way,  
18 one more question. Are there other contributors to overhead  
19 besides the small delta in profit that is the differential  
20 between the net retail value for go-forward stores and the  
21 book value? Were there other financial contributors within  
22 the financial statements of the company?

23 A Well, the company doesn't report -- I'm not sure I  
24 understand the question. What accounts for the 15 --

25 Q No, my question is --

1 A -- million dollars --

2 Q -- what else was available to satisfy overhead? Were  
3 there other resources generated at a store level  
4 (indiscernible) --

5 A Well there's a -- yeah, I'm sorry. There's a large  
6 category that's not picked up there. Vendor discounts,  
7 rebates, and allowances. There's a multi-hundred million  
8 dollar category which the company books at the corporate  
9 level rather than at the store level.

10 Q And that money is not included in your net retail  
11 value. Is that correct?

12 A No. That's exactly right.

13 Q So that money would be available for corporate  
14 overhead?

15 A Yes, sir.

16 Q And are other business that Sears had besides the store  
17 business that is reflected on this -- in this report?

18 A Yes.

19 Q And what are they?

20 A Well, they had a variety of store -- of businesses that  
21 they were in and none of them were counted in this analysis.

22 Q And presumably, they contributed to overhead as well?

23 A Unless they were losers, in which case (indiscernible)  
24 drain, but yes.

25 MR. MOLONEY: Thank you. No more questions, Your

1 Honor.

2 THE COURT: Okay. Any re-cross?

3 MR. GENENDER: Very briefly, Your Honor.

4 RE-CROSS EXAMINATION OF DAVID SCHULTE

5 BY MR. GENENDER:

6 Q Mr. Schulte, you have your report in front of you, your  
7 declaration. You're on Page 30 of 71. Do you have that?

8 A Yes, sir.

9 Q And on Page 31 of 71, the numbers that Mr. Moloney just  
10 went through with you, those are the delta between gross  
11 retail and book value or net retail, that's as of the  
12 petition date, right?

13 A Yes.

14 Q Does that take into account expenses that were being  
15 incurred in furtherance of a going concern sale post-  
16 petition?

17 A This was done on the petition date.

18 Q Thank you. So the answer is no to my question, right?

19 A Yes. Yes, sir.

20 Q Thank you. If you can turn to the previous page, Page  
21 10 -- 29 of 71, Page 10 at the bottom of your report and can  
22 -- I want to direct your attention. I apologize for the  
23 small print, but you're the one that used it. Footnote 20.  
24 You're citing to -- Footnote 20 goes to your inventory  
25 valuation, right?

1 A Yes.

2 Q And your footnote says, "Based on information contained  
3 in Sears Holding Corporation inventory appraisal by Tiger  
4 Capital Group dated September 28th, 2018 for inventory as of  
5 October 6." Correct? You see that?

6 A I do.

7 Q And then you say you note the historical margin of 27.4  
8 percent that implies the 37.7 percent markup is not  
9 materially different from the 26.5 percent margin achieved  
10 by the go-forward stores during the bankruptcy as shown in  
11 Appendix F. Do you see that?

12 A I do.

13 Q Did you do those calculations independently or did you  
14 rely on the Tiger report?

15 A We relied on the Tiger report for what Tiger said.

16 Q Thank you.

17 A But only for what Tiger said. Relied on the company's  
18 financials for the historical margins.

19 MR. GENENDER: Those are all the questions I have,  
20 Your Honor.

21 THE COURT: Okay.

22 MR. MOLONEY: Just very, very briefly, Your Honor.

23 RE-DIRECT EXAMINATION OF DAVID SCHULTE

24 BY MR. MOLONEY:

25 Q On first petition, they did sell -- continued to sell

1 the inventory, correct?

2 A Yes.

3 Q And they actually realized the same values, 95.6  
4 percent value on the going-out-of-business sale and the same  
5 profit margin as they earned --

6 MR. GENENDER: Your Honor, at this point -- I  
7 haven't, but at this point I'm going to object to counsel  
8 testifying through leading questions.

9 MR. MOLONEY: Okay.

10 Q Did they continue to sell the same inventory that they  
11 had sold pre-petition, post-petition?

12 A Yes. And Footnote 20 says that they -- their  
13 historical experience of 27 percent continued.

14 Q And did they achieve the same historical experience on  
15 the going-out-of-business sales that they had pre-petition?

16 A Yes.

17 Q And did that -- did those revenues, was there  
18 significant revenues generated by those sales?

19 A I'm sorry --

20 Q Post-petition sales. Were there significant revenues  
21 generated by the --

22 A Yes. I believe the correct number for revenue generate  
23 between the petition date and the sale date was over \$3  
24 billion.

25 Q Over \$3 billion?

1 A Of gross revenue.

2 MR. MOLONEY: Thank you.

3 THE COURT: You may step down. So who's next?

4 Ms. Murray or Mr. Henrich?

5 MR. FOX: Your Honor, Edward Fox, for the record.

6 Call William Henrich.

7 THE COURT: Okay. Okay, would you raise your  
8 right hand, please? Do you swear or affirm to tell the  
9 truth, the whole truth, and nothing but the truth, so help  
10 you God?

11 MR. HENRICH: I do.

12 THE COURT: Okay. And could you just spell your  
13 last name for the record, please?

14 MR. HENRICH: Henrich, H-E-N-R-I-C-H.

15 THE COURT: Okay. And Mr. Henrich, you've  
16 submitted an expert report in connection with these  
17 disputes. Sitting here today, is there anything that you  
18 would want to change in that or your declaration in support  
19 of it that attaches?

20 MR. HENRICH: No. The expert report stands as it  
21 is, as also the declaration. There are just four minor  
22 edits that didn't make it into the last draft --

23 THE COURT: Okay.

24 MR. HENRICH: -- transcription errors that -- if  
25 the Court allows --

1 THE COURT: In the declaration?

2 MR. HENRICH: -- I'm happy to clear up.

3 THE COURT: In the declaration?

4 MR. HENRICH: In the declaration.

5 THE COURT: Okay.

6 MR. HENRICH: In Paragraph 8, Bucyrus Erie should  
7 be EaglePicher. It's a prior testimony. Paragraph 83,  
8 there was a transcription error. The go-forward stores'  
9 inventory -- it reads, "The go-forward stores' inventory was  
10 approximately \$2.497 billion at cost on the petition date."  
11 That should've read \$2.074 billion. In Paragraph 94, it  
12 says, "reflected in Exhibit 3 to my report." That should've  
13 been Exhibit D of the declaration.

14 And in Declaration Exhibit D, Exhibit 2A and 2B,  
15 the column heading says, "10/15/2019." It should've been  
16 10/15/2018. None of these change the analysis or the  
17 conclusions of the report or as cited in the declaration.  
18 They're just minor edits that didn't make it into the final  
19 draft.

20 THE COURT: Okay. Okay. So you want to go ahead  
21 with cross?

22 MR. GENENDER: Thank you, Your Honor. May I  
23 approach, Your Honor?

24 THE COURT: Yes.

25 CROSS EXAMINATION OF WILLIAM HENRICH

1 BY MR. GENENDER:

2 Q Good morning, Mr. Henrich.

3 A Good morning.

4 Q How are you?

5 A Good, thank you.

6 Q Okay. You've got a book in front of you that we'll  
7 navigate through, a skinny book, and I'll -- we'll be  
8 referring back and forth to them. If there's method to how  
9 we're going back and forth at the end, let me know how I  
10 did, okay?

11 A Sure thing.

12 Q Looking at the first page of the skinny book, the  
13 (indiscernible) book that says the 507(b) chart, can you  
14 turn to that?

15 A I have that in front of me.

16 Q Great. Let me stop for a second before I even go  
17 there. Did you rely in any way on any third-party  
18 appraisals in arriving any of your opinions? Tiger, for  
19 example?

20 A We did not rely on the appraisal. We used it as a data  
21 point but did not utilize it in the calculation of our  
22 value.

23 Q Did you do anything to vet the accuracy of anything in  
24 the Tiger appraisal?

25 A No.

1 Q Or any other appraisal?

2 A No.

3 Q Thank you. Okay. You have the 507(b) chart in front  
4 of you and you see there's a column -- the farthest column  
5 on the right is dedicated to you?

6 A I see the last column has my last name --

7 Q Yes.

8 A -- on top.

9 Q And then you see the figures below it, correct?

10 A I do.

11 Q And there is a total inventory value that you're --  
12 depicted there that you arrived at of \$3 billion -- \$3.011  
13 billion. Do you see that?

14 A I do.

15 Q And that's your number, correct?

16 A Yes.

17 Q And that's reflected in Exhibit D of your declaration,  
18 whether it's 2018 or 2019, right?

19 A Yes.

20 Q Okay. And you get that number by applying a 29 percent  
21 gross margin to the go-forward book value inventory,  
22 correct?

23 A That was one component of the calculation.

24 Q Okay.

25 A Right.

1 Q And would you agree with me that the \$3.011 billion  
2 inventory value reflects a 12.4 percent margin on inventory?

3 A I am not aware how you calculated that --

4 Q Okay.

5 A -- percentage.

6 Q Would you agree with me -- let me try a different way.  
7 Would you agree with me that your inventory value of \$3.011  
8 billion is 112 percent of the total stock ledger inventory  
9 in the October 13th borrowing base certificate, the \$2.69  
10 billion number?

11 A If you're suggesting by math, if you're dividing the  
12 three-oh -- the \$3.011 billion divided by \$2.691 billion, if  
13 that comes to the calculation that you suggested, by math, I  
14 concur.

15 Q Thank you. In other words, maybe a simpler way to put  
16 it, there's a 320-some-odd million dollar difference between  
17 your inventory -- your gross inventory calculation and the  
18 book value inventory from the borrowing base certificate of  
19 \$2.69 billion, correct?

20 A Again, \$3.011 billion less \$2.691 billion, if your math  
21 is correct, I'll take your word for it.

22 Q Thank you. In your inventory number, if you look at  
23 your \$3.011 billion number and go to the left, it's \$816  
24 million more than Marti Murray's inventory value, correct?

25 A Yes.

1 Q And it's approximately \$725 million more than Mr.  
2 Griffith's calculation, correct?

3 A It is -- would you repeat the question, please?

4 Q It's about \$725 million more than Mr. Griffith's  
5 calculation, correct, for total inventory?

6 A No.

7 Q You see his number of total -- I'm sorry, inventory  
8 value of \$2,287,000,000 and yours is \$3,011,000,000?

9 A I apologize. I was on the wrong line. Sorry.

10 Q Fair enough.

11 A Okay.

12 Q About \$725 million more than Mr. Griffith's, correct?

13 A Correct.

14 Q And about 350 more than Mr. Schulte's, correct?

15 A Correct.

16 Q And you added in -- you included non-inventory  
17 collateral sources to your petition date valuation of  
18 collateral, correct?

19 A Would you repeat the question, please?

20 Q You included non-inventory collateral sources to you  
21 collateral calculation --

22 A To the total collateral value --

23 Q Yes, sir.

24 A -- Yes.

25 Q And those were cash, pharmacy receivables, pharmacy

1       prescription lists, and a figure for credit card

2       receivables, right?

3       A       Correct.

4       Q       All right. The credit card receivable number you used  
5       is different than the one contained in the borrowing base  
6       certificate, right?

7       A       The credit card receivable amount that we used was that  
8       listed in the Debtors' schedules. I believe it is slightly  
9       different than what was identified in the borrowing base.

10      Q       I'll represent to you the borrowing base certificate  
11      says \$54.8 million. Does that sound right?

12      A       Thank you, yes.

13      Q       And you see actually just to the left of you that Ms.  
14      Murray actually uses the borrowing base certificate number.  
15      You see that?

16      A       Yes.

17      Q       So your number's \$9.5 million more than the borrowing  
18      base certificate, correct?

19      A       Yes.

20      Q       And you use \$116.2 million for cash, correct?

21      A       Yes.

22      Q       Different than the number for cash used by Mr. Schulte  
23      and Ms. Murray, correct?

24      A       Yes.

25      Q       And you use \$14.5 million for pharmacy receivables and

1 72.8 million for pharmacy prescription lists, correct?

2 A Correct.

3 Q That's based on your belief that those -- that cash,  
4 scripts, and pharmacy receivables are 2L collateral,  
5 correct?

6 A Can you repeat the question, please?

7 Q Are you expressing an opinion as to whether cash,  
8 scripts, and pharmacy receivables are 2L collateral?

9 A I express an opinion that pharmacy receivables and  
10 scripts are 2L collateral cash to the extent that it was out  
11 of proceeds of the second lien's collateral, but cash and  
12 cash equivalents is the exclusive -- except to the extent it  
13 comes out of second lien collateral -- is the exclusive  
14 collateral of the first lien.

15 Q Did you perform any calculation of how much of the  
16 \$116.2 million of cash you believe came from 2L collateral?

17 A No, but it wasn't necessary --

18 Q The answer's no?

19 A -- to our analysis.

20 Q The answer is, you didn't do that calculation?

21 A We did not.

22 Q Thank you. Now, you're not offering -- are you  
23 offering an interpretation as to what the 1L and 2L security  
24 agreements state as to what's included as 1L collateral and  
25 what's included at 2L collateral?

1 A We made certain judgments about that based on the  
2 agreements, yes.

3 Q Okay.

4 A But again, it was -- but the distinction between what  
5 was first and second lien collateral was irrelevant to our  
6 approach to the calculation of aggregate value.

7 Q Well, you -- your total collateral value is  
8 \$3,279,000,000, correct?

9 A Correct.

10 Q And that includes cash, scripts, and pharmacy  
11 receivables as reflected on this demonstrative, correct?

12 A Yes.

13 Q If you're turn to the pad that says JX-006 and 007,  
14 demonstrative -- if you'll turn that so you can read it, do  
15 you see there's a juxtaposition there of Section 3.1 from  
16 the 1L security agreement which is JX Exhibit 7 on Pages 13  
17 and 14 and Section 2.1 of the 2L security agreement which is  
18 JX Exhibit 6, Page 12? Do you see those?

19 A Yes, I do.

20 Q And you see that in the 1L security agreement pharmacy  
21 receivables, prescription lists, and all cash and cash  
22 equivalents are specifically listed as highlighted, correct?

23 A Yes.

24 Q And those three items are not so listed in the 2L  
25 security agreement, correct?

1 A They're not specifically listed --

2 Q Thank you.

3 A -- correct.

4 Q As a matter of math, going back to the 507(b) chart,  
5 Mr. Henrich, would you agree with me that if you added  
6 \$116.2 million of cash --

7 A I'm sorry, did we move back to the first page?

8 Q The charts. Yes, sir.

9 A Thank you.

10 Q You bet. As a matter of math, if you added the \$116  
11 million of cash that you include, the -- as 2L collateral,  
12 the \$9.5 million of credit card receivable difference  
13 between your figure and the borrowing base figure of \$14.5  
14 million pharmacy receivable figure you used and the \$72.8  
15 million pharmacy prescription lists that you use, that that  
16 adds up to approximately \$213 million?

17 A I beg your pardon? You added the 14.5, the 72.8, the  
18 116.2 --

19 Q And 9.5.

20 A -- and 9.5.

21 Q As a delta between the 64.3 and 54.8 from the borrowing  
22 base.

23 A Okay.

24 Q Do you accept my math on that?

25 A I'll accept your math.

1 Q \$213 million. Thank you. Your original report that  
2 was, I think we established in your deposition was finalized  
3 moments before midnight on June 18th, 2019?

4 A Yes, we had a chuckle about that.

5 Q Yes.

6 A Yes.

7 Q And we just did now.

8 A Yeah.

9 Q That included as 1L the \$128 million standby letters of  
10 credit, correct?

11 A I believe you meant 123.8.

12 Q Yes. You included that as 1L debt in your original  
13 report, correct?

14 A We did, out of -- to be conservative, because at the  
15 time we were uncertain whether the first lien letters of  
16 credit were funded, drawn, or not.

17 Q Okay. You amended your report last Thursday and  
18 changed that -- your opinion in that regard to exclude both  
19 letters of credit as opposed to just one of the 2Letters of  
20 credit as 1L debt, correct?

21 A Like, the initial exclude the standby --

22 Q Yes.

23 A -- letter of credit, 271, and the second -- and the  
24 amended report excluded both the 271 and the 123.

25 Q Okay. And you're basing that solely on the fact --

1 your belief that the letters of credit weren't drawn,  
2 correct?

3 A Well, based on -- the answer is yes, based on listening  
4 to Mr. Griffith's testimony based on inquiry that we made at  
5 the time that we asked for discovery as it related to the  
6 271 and addition and going back to Mr. Riecker's declaration  
7 from November 2018 where he indicated that 15 -- \$1.531  
8 billion was drawn against the first lien facility and the  
9 only way you get to -- was outstanding on the first lien  
10 facility and the only way you get to that number is if the  
11 395, the aggregate of the 123 and the 271, was not  
12 outstanding.

13 Q Did you -- you agree that those 2Letters of credit, the  
14 combined amount of \$395 million, formed a portion of the  
15 \$5.2 billion purchase price under the APA?

16 A I don't have an opinion of that.

17 Q Okay. You're not aware of that. Are you aware that  
18 the 2Letters of credit that you excluded as 1L debt were  
19 rolled into, assumed as part of the purchase price of the  
20 APA?

21 A Again, that was irrelevant to our analysis --

22 Q Can you just answer my question?

23 A -- as to what the debt was as of the petition date.

24 Q Can you just answer my question?

25 A Sure.

1 Q So you're not aware that the 2 Letters of credit were  
2 rolled into the APA? Is that correct?

3 A I have not studied the APA. Only to the extent that  
4 you have discussion with Mr. Schulte and indicated that it  
5 was. Only to that extent.

6 Q Can you turn in the larger book in front of you to the  
7 tabs that says Joint Exhibit 8? Do you have that in front  
8 of you?

9 A I do.

10 Q Have you ever seen Joint Exhibit 8 before?

11 A I don't recall.

12 Q Can you turn to Page 4 of it, please? You see on Page  
13 4 of it, the third bullet down underneath the heading. The  
14 heading is, "ESL is pleased to offer its \$4.4 billion bid  
15 for Newco as a going concern which is composed of the  
16 following." Do you see that?

17 MR. FOX: Your Honor, this is the exhibit we  
18 (indiscernible).

19 THE COURT: Well, we'll see what he's going to ask  
20 first, all right --

21 MR. FOX: Thank you.

22 THE COURT: Then I'll consider it.

23 Q Do you see that heading?

24 A Would you (indiscernible) the question again?

25 Q Absolutely. You see the heading on Page 4? It says,

1 "ESL bid summary." Do you see that?

2 THE COURT: That's Page 3, right?

3 A Yeah, I don't -- on Page 4, I do not.

4 THE COURT: I think it's Page 3.

5 Q You're both right. It's Bates number 4 but it's Page 3  
6 of the presentation. I apologize, Your Honor. See it says,  
7 "ESL bid summary" at the top?

8 A Yes, thank you.

9 Q And then the heading says, "ESL is pleased to offer its  
10 \$4.4 billion bid for Newco as a going concern which is  
11 composed of the following." Do you see that?

12 A I do.

13 Q And then if you go third bullet point down, it says,  
14 \$501 million in rollover debt and it says, \$230 million of  
15 junior DIP and \$271 million of Citi LC facility. Do you see  
16 that?

17 A I do.

18 Q Is that the same \$271 million Citi LC facility that you  
19 did not include as 1L debt?

20 MR. FOX: Objection, Your Honor. He's never even  
21 seen this. He doesn't know what it is.

22 THE COURT: He's never seen it before.

23 MR. GENENDER: I'll withdraw it.

24 THE COURT: Okay.

25 Q Mr. Henrich, did you consider Exhibit 8 in any way

1 forming any of your opinions in this case?

2 A No.

3 Q And can I -- let me ask you the same question on  
4 Exhibit 9, which is the next document in the book. Did you  
5 consider -- have you seen Exhibit 9 before entitled,  
6 "Project transform sources and uses, December 2018"?

7 A I do not recall seeing it.

8 Q Thank you. If you could turn in the small book to the  
9 very last tab that has three pages from the APA. It's under  
10 -- the heading is JX-34.

11 A Thank you.

12 Q You bet. See there's a definition of LC facility  
13 consideration?

14 A I see that highlighted.

15 Q And on next page, the \$1.4 billion cash component is  
16 highlighted?

17 A Yes.

18 Q And Page 52 of the document, the LC facility  
19 consideration is listed specifically. You see that?

20 A Yes.

21 Q Did you rely in any way on these items in the APA in  
22 forming your decision to not include the 1L debt -- not  
23 include the letters of credit as 1L debt?

24 A No. Our consideration of debt was as of the petition  
25 date.

1 Q Did you do any independent analysis of the fair market  
2 value of the 2L debt -- sorry, the 2L collateral as of the  
3 sale date?

4 A As of the sale date?

5 Q Yes, sir.

6 A No. We deemed that irrelevant.

7 Q Thank you.

8 A To the analysis.

9 Q You didn't do a calculation for post-petition interest,  
10 did you -- 1L post-petition interest?

11 A No --

12 MR. FOX: Objection, Your Honor.

13 THE COURT: First of all, it's any calculation.

14 Q Did you answer, sir?

15 A My prior answer was based on having not done one at any  
16 point in time.

17 Q So you don't have any basis to refute the calculation  
18 performed by Mr. Griffith that there was 34 -- that there  
19 would be \$34 million in 1L post-petition interest?

20 A Other than it seemed odd that the unfunded LCs, that an  
21 interest rate of seven -- I think 7.1 percent, if I'm not  
22 mistaken, was applied to total first lien debt of 1927 which  
23 would assume that the LCs were fully drawn for the 395, the  
24 123, and the 271, were fully drawn and that would be unusual  
25 for a full interest rate to be applied against undrawn LCs.

1 Q You didn't perform a calculation, did you?

2 A No, we didn't perform a calculation.

3 Q Thank you. Mr. Henrich, you're critical of the  
4 Debtors' application of an 85 percent value on the petition  
5 date to the book value of inventory because, as you say, the  
6 Debtors' actual experience at the GOB stores yielded 96.4  
7 percent of book value. Is that correct?

8 A Yes.

9 Q Okay. Do you understand Mr. Griffith applied 85 -- an  
10 85 percent figure to the total inventory, rather than just  
11 the GOB inventory?

12 A Yes. That's what -- that was his methodology.

13 Q And if you'll look sir, at the second tab in the spiral  
14 book that says, "Borrowing base certificate."

15 A I have that in front of me.

16 Q Mr. Griffith applies an 85 percent fair market value  
17 figure to the total stock ledger inventory of \$2.69 billion.  
18 You see that?

19 A Would you repeat the question? I apologize.

20 Q Sure. Mister -- you see the total stock ledger  
21 inventory number of \$2.69 billion?

22 A Yes.

23 Q Okay. And if you go back now to the 507(b) chart; you  
24 have that in front of you?

25 A Yes.

1 Q That's -- and that's the figure to which Mr. Griffith  
2 applies an 85 percent fair market value number, correct?

3 A That's to which he applies 85 percent.

4 Q Yes. Well -- yes, which he calls a fair market value  
5 figure, right?

6 A Which he calls a fair market value.

7 Q He does not apply that 85 percent figure to the net  
8 eligible inventory reflected on the borrowing base, does he,  
9 if you go back to the next page?

10 A He does not.

11 Q And the delta between those two numbers of the total  
12 stock ledger inventory and the net eligible inventory is  
13 about \$300 million, correct?

14 A The 269.1 less the 239.1.

15 Q Yes.

16 A Correct.

17 Q Have you done the math to see how his inventory value  
18 of \$2.287 billion compares as a percentage to the net  
19 eligible inventory number on the borrowing base certificate  
20 of \$2.391 billion?

21 A No. Again, that was irrelevant --

22 Q Is the answer no?

23 A -- to the analysis.

24 Q Answer's no?

25 A The answer is no.

1 Q Okay. If that number, would you be surprised if that  
2 number came out to approximately 96 percent?

3 A Shall I take your word on the math again?

4 Q Up to you. \$2.287 billion over \$3.91 billion is over  
5 95 percent, isn't it?

6 A That would be about correct.

7 Q Thank you. And we can agree that it is what it is,  
8 right?

9 A Correct.

10 Q Thank you. You'd agree, sir, as a general proposition  
11 the inventory that is in a store to be sold is eligible  
12 inventory, correct?

13 A Inventory that is in a store --

14 Q To be sold.

15 A -- can be sold.

16 Q To be sold, is eligible inventory.

17 A It is inventory and -- but whether something's eligible  
18 or ineligible is a lender's definition to determine  
19 ultimately what they're going to lend against.

20 Q And you didn't give that any weight, did you?

21 A No.

22 Q And I want to talk -- let me talk about 506(c)  
23 surcharges in this -- Mr. Henrich, you agree that there  
24 should be 506(c) surcharges in this case, correct?

25 A Correct.

1 Q Of the three experts, you're the one that feels that  
2 way, right?

3 A Correct.

4 Q And you'd agree that a certain allocation of  
5 professional fees went to the primary and direct benefit of  
6 the second lienholders and the Debtors are entitled to a  
7 506(c) surcharge on that basis, correct?

8 A I believe that some portion of professional fees would  
9 be properly allocable to 506(c).

10 Q You testified that because we do believe that a certain  
11 allocation of professional fees are -- in the pendency of  
12 the bankruptcy case are applicable to providing primary and  
13 direct benefit to the preservation of the collateral for the  
14 secured lender, correct?

15 A I concur.

16 Q That's your testimony?

17 A Then I certainly concur.

18 Q And you previously testified on 506(c) surcharges in  
19 this very Court, right?

20 A I did.

21 Q In the In RE: Flat Out Crazy, LLC bankruptcy, right?

22 A Correct.

23 Q And you were -- and that was before Judge Drain,  
24 correct?

25 A It was.

1 Q And you were successful in that matter in obtaining --  
2 well, the Debtor in that case was successful in obtaining a  
3 506(c) surcharge over the objection of a secured creditor  
4 and successful bidder at an auction in that case, correct?

5 A Subject to His Honor's allocation of expense, yes.

6 Q Okay. And you said that was -- there was a secured  
7 lender in that case that, in your words, "essentially wanted  
8 the sale process for free." Do you recall telling me that  
9 in a deposition?

10 A I do.

11 Q And you testified in that case that among other things,  
12 you took the pre-petition and post-petition steps to  
13 stabilize and improve profitability across the entire  
14 business, USCRO in that case, right?

15 A Correct.

16 Q And you're aware that M3 was engaged as early as 2016  
17 to act as the Debtors' financial advisors in this case?

18 A I don't recall when they were retained, but I know they  
19 were there pre-petition.

20 Q Okay. And they are serving as the chief restructuring  
21 officer in this case?

22 A Correct.

23 Q You testified that to the extent Mr. Schulte or Ms.  
24 Murray opined that there should be no 506(c) surcharge  
25 against the collateral, you disagree with that analysis,

1 correct?

2 A Yes, consistent with what I indicated previously.

3 Q Your analysis deducts or includes as 506(c) surcharges  
4 corporate overhead expenses which help preserve the  
5 collateral as a component of the 506(c) expenses, correct?

6 A Well, we included professional fees as 506(c) costs and  
7 we thought that there should be an allocation of corporate  
8 expenses as well.

9 Q \$51 million of professional fees, \$138 million of  
10 corporate overhead expense, and \$19.1 million of expenses  
11 associated with the GOB source, correct?

12 A Correct. Those are the numbers we ascribe -- we had no  
13 basis to -- we utilized the Debtors' number on the 506(c)  
14 professional fees.

15 Q But the other numbers you calculated, correct?

16 A Correct.

17 Q And the total is reflected on the 507(b) chart  
18 demonstrative of \$208.1 million, correct?

19 A Correct.

20 Q So I want to go -- finishing on the 507(b) chart and  
21 try and figure out and go through with you, you see you have  
22 a total 507(b) claim of \$1.314 billion. Do you see that?

23 A Yes.

24 Q Which is \$350 million more than Mr. Schulte's, correct?

25 A Correct.

1 Q And \$820 million more than Ms. Murray's, correct?

2 A Correct.

3 Q And \$1.375 billion different than the total arrived at  
4 by the Debtors, correct?

5 A Correct.

6 Q That delta between your figure and the Debtors' figure  
7 is comprised of \$395 million of letters of credit that you  
8 didn't include, correct?

9 A Yes, that's one component.

10 Q Plus the \$34 million of 1L post-petition interest,  
11 correct -- first lien interest?

12 A Yes.

13 Q Those together are \$429 million, right?

14 A Yes.

15 Q And then the total difference in collateral between  
16 your figure and the Debtors' figure is about \$945 million,  
17 is that right? Total collateral.

18 A The difference between the \$3,279,000,000 and the  
19 \$2,334,000,000.

20 Q Yes.

21 A Yes.

22 Q And those two figures together arrive at a delta  
23 between your figure and the Debtors' figure of about \$1.375  
24 billion, correct?

25 A \$1.375?

1 Q Billion, yes.

2 A Okay --

3 Q Because you're positive 1.314 --

4 A And you're negative --

5 Q And the Debtors are negative \$60 million.

6 A Yes.

7 Q To be fair, you would -- unlike the experts, would  
8 apply a \$208.1 million 506(c) surcharge, right?

9 A I couldn't hear you.

10 Q You would apply a 506(c) surcharge, correct?

11 A Yes.

12 Q And you haven't done any independent calculations  
13 regarding Mr. Griffith's calculations on expenses incurred  
14 in furtherance of the sale for the direct and primary  
15 benefit of the preservation of collateral for the time  
16 periods December 28 to February 11th, correct?

17 A Between December 28th and February 11th?

18 Q Yes.

19 A No.

20 Q And you didn't do any sort of analysis of his  
21 calculations of those saving -- expenses for time period  
22 January 17th, 2019 to February 11th, 2019, correct?

23 A Correct.

24 MR. GENENDER: Pass the witness. Thank you, Your  
25 Honor.

1 THE COURT: Redirect? (Indiscernible).

2 MR. LIUBICIC: For the record, Robert Liubicic on  
3 behalf of Cyrus Capital.

4 RE-DIRECT EXAMINATION OF WILLIAM HENRICH

5 BY MR. LIUBICIC:

6 Q Good afternoon, Mr. Henrich.

7 A Mr. Henrich, just a couple of questions about the  
8 testimony that you gave about 506(b) surcharges, if that's  
9 okay.

10 Q Sure. Do you --

11 THE COURT: Can I interrupt you? Are you going to  
12 do direct? I thought he was your witness, Mr. Fox.

13 MR. FOX: He is. Mr. Liubicic wanted to ask about  
14 -- a couple questions Mr. Genender asked and --

15 MR. LIUBICIC: Your Honor, I just have about three  
16 questions that relate to Ms. Murray.

17 THE COURT: Okay.

18 Q Mr. Henrich, are you aware that Ms. Murray used an 88.7  
19 percent NOLV to value eligible inventory?

20 A I am.

21 Q Okay. Do you know whether Ms. Murray's NOLV includes  
22 the direct selling costs of disposal of that inventory?

23 A Well, by definition, if you're using the net orderly  
24 liquidation value it would already consider direct selling  
25 expenses.

1 Q And do you know whether Ms. Murray's NOLV includes the  
2 non-direct selling costs of disposing of that inventory?

3 A With respect to corporate expenses, for example?

4 Q For example.

5 A Well, to the extent that it relied on the Tiger  
6 valuation report, the Tiger valuation report did consider  
7 some level of corporate overhead royalty expense and there  
8 was one other line item, as well.

9 MR. LIUBICIC: No further questions.

10 THE COURT: Okay.

11 RE-DIRECT EXAMINATION OF WILLIAM HENRICH

12 BY MR. FOX:

13 Q Good afternoon, I think it is, Mr. Henrich. My name's  
14 Edward Fox, as you know. I represent Wilmington Trust. Mr.  
15 Genender asked you a few questions about the difference  
16 between the total inventory number that you used and the  
17 total inventory number that Mr. Griffith used. Do you  
18 recall that?

19 A Yes.

20 Q Okay. Can you explain why there's a difference between  
21 your total inventory number and Mr. Griffith's total  
22 inventory number?

23 A Yes.

24 Q There's different methodologies. So we used -- we've  
25 looked at valuing the collateral by its intended use as of

1 the petition date. So we recognized that there were 262  
2 stores, albeit that was in three waves, that were GOB stores  
3 that were going to be liquidated and there were 425 stores  
4 that were going to be going concern, going forward stores.

5 So we valued the inventory for the GOB stores at  
6 its, essentially, actual results as reported by the company,  
7 which exceeded approximate 96 percent, well exceeded the 85  
8 percent multiplier that Mr. Griffith used and then with  
9 respect to the going forward stores, the assumption there is  
10 that inventory was going to be sold at retail and being sold  
11 at retail, it would generate a gross margin. That gross  
12 margin dollars would pay for both direct selling expense as  
13 well as corporate expense and leave a margin so that  
14 inventory would actually generate incremental value for the  
15 benefit of the company.

16 And so that distinction, you know, of looking at  
17 inventory actually being sold at retail as opposed to a  
18 contrived or assumed 85 percent is -- yields a difference of  
19 a magnitude as depicted. I wouldn't call 85 percent of fair  
20 market value of inventory at the petition date, nor would I  
21 consider it a value of inventory sold at retail. You  
22 couldn't -- an entity, if that was the fair market value at  
23 retail, they would be never making money.

24 And here, the assumption was that this inventory  
25 was going to be sold as -- in going concern stores and an

1 ongoing business.

2 Q Now, when you applied a gross margin, I believe you  
3 testified you used a 29 percent gross margin on book value?

4 A Yes.

5 Q And how'd you pick that number?

6 A Well, that was the number that the Debtor actually  
7 identified and assumed through most of its business plans  
8 and forecasts for the going forward stores in presentations  
9 to the Unsecured Creditors' Committee and there were various  
10 presentations that incorporated that.

11 Q And then after you applied the gross margin to the book  
12 value of inventory to get the gross value, what did you do  
13 next in order to reach your net value?

14 A So, we applied direct selling expenses and we used  
15 direct selling expenses and a comparable basis as what the  
16 experience had been as a percentage of inventory in the GOB  
17 stores as we saw. In fact, the 20 percent that we utilized  
18 is slightly -- is actually slightly higher than that. And  
19 then we applied a 5 percent corporate overhead number for  
20 the going forward stores. We actually used the 3.1 percent  
21 of inventory for the GOB stores. And that 5 percent, we  
22 thought, was reasonable.

23 It made -- it was not necessarily all that the  
24 company incurred because it was a bloated corporate  
25 structure that was on the decline as they were looking -- as

1 they were shedding stores over time. But if you looked at  
2 their forecasts of corporate overhead expenses, they  
3 incurred in 2017 about a \$1.71 billion which is about 10  
4 percent, 10 percent plus, of revenue.

5 In 2018, they incurred about \$600 million which  
6 was about 5.5 percent and their forecast for 2019 was, if  
7 memory serves me right, \$365 million which was about 4.4  
8 percent. So we opted -- we thought from a normalized  
9 operations based on experience in retail operations, 5  
10 percent was a reasonable going concern, go-forward number  
11 and it was relative -- it was consistent with the blend  
12 between 2018 and 2019 that they were experiencing.

13 Q Do you recall the amount of direct selling expense you  
14 deducted in your report from the gross margin inventory  
15 number?

16 A Do I remember the direct selling expense?

17 Q The total direct selling cost that you deducted from  
18 the gross margin.

19 A I have to look it up.

20 Q You can take a look if you don't remember. You have  
21 your report there, or your declaration.

22 A Is that total for the -- the total between the GOB and  
23 the going forward, are you asking, or just one or the other?

24 Q Just the go forward.

25 A Just the go forward.

1 Q If you can.

2 A I believe -- well, can someone please --

3 Q Do you have your report?

4 A -- direct me -- well, just -- I have the report. Here,  
5 is just my -- what is this, Exhibit D? That's that. A  
6 total of approximately \$470 million.

7 THE COURT: And that -- I'm sorry, you testified  
8 that's 20 percent of what?

9 MR. HENRICH: For the going forward stores, it's  
10 20 percent of revenue.

11 THE COURT: Of gross sales?

12 MR. HENRICH: Of gross revenue, gross sales.

13 Q And would those direct selling expenses include some of  
14 the things that Mr. Griffith calls 506(c) surcharges, things  
15 like rent and employee expense and things of that nature?

16 A Yes.

17 Q Now, you also talked about -- you also deducted  
18 overhead expense? How much overhead expense did you deduct?

19 A Approximately \$158 million.

20 Q Okay. And that was over a period of about four months?

21 A Correct.

22 Q So on an annualized basis, what would have been the  
23 total overhead cost you'd be using? Corporate overhead  
24 cost.

25 A 450.

1 Q About \$450 million?

2 A Right.

3 Q And does that compare favorably, in your view, to the  
4 assumptions that the Debtors made in the report you're  
5 referring to?

6 A It's consistent. I mean, as I said, it's consistent  
7 with a blend between 2018, 2019.

8 Q Okay. And the report you looked at was -- had M3's  
9 name on it, right?

10 A It was a report to the Unsecured Creditors' Committee.  
11 Yes, it did.

12 Q Okay. Now, the -- I think you mentioned the 3.1  
13 percent number that you used, that you referenced Tiger? Is  
14 that correct?

15 A Yes.

16 Q And just tell me again what that was?

17 A So in -- and this is the one place that we did look at  
18 the Tiger appraisal, correct slightly my earlier statement,  
19 but the Tiger appraisal report incorporated an allocation of  
20 cost of corporate overhead as well as royalty expense and  
21 there was one other line item that I can't recall right now.  
22 The aggregate of the three was 3.1 percent of inventory  
23 value.

24 Q Did you rely on the Tiger 3.1 percent number in your  
25 analysis?

1 A Well, in fact, for the GOB stores, we didn't rely on  
2 it. I take that -- because, in fact, we looked at actual  
3 results.

4 Q So you looked at -- so is it fair to say you looked at  
5 the Tiger number but you did not rely on that number?

6 A That's correct.

7 Q Okay. Now --

8 A No, I beg your pardon. Let me -- I beg your pardon.  
9 Let me take a step back. We did not rely in terms of direct  
10 selling expenses. We did not rely on the Tiger report.  
11 With respect to an allocation of corporate overhead, we did  
12 rely on the Tiger report only for the 3.1 -- we utilized the  
13 3.1 percent and applied that to the GOB inventory to derive  
14 the \$18, \$19 million of corporate expenses. So I apologize  
15 to what I said before.

16 Q Okay. And to the extent that the Debtor had going-out-  
17 of-business sales and go-forward store sales going on at the  
18 same time, isn't there just one -- is it fair to say there's  
19 one overall corporate overhead number that the company  
20 incurs?

21 A Yes.

22 Q Okay.

23 A It's the same people.

24 Q Right. So if you were a little lower on, say, going-  
25 out-of-business stores, you'd be a little bit higher on the

1 other stores to get the overall total, correct?

2 A Well, again, we thought that the aggregate allocation  
3 that we made for corporate overhead was a fair allocation  
4 and in our estimation, reasonable.

5 Q Okay. Now, you were -- it was pointed out during your  
6 testimony with respect to this -- the Debtors' 507(b)  
7 calculation chart that there was a difference of -- between  
8 your total inventory number and both the Murray -- wait, I'm  
9 sorry. Strike that. Move on. You were asked about your  
10 use of cash in connection with your evaluation. So did you  
11 include the cash in your collateral numbers?

12 A Yes.

13 Q Okay. And -- but was it your view that that's 2L,  
14 second lien cash or is it your view that it's first lien  
15 cash?

16 A Our view was that it was first lien cash, but we were  
17 looking at the aggregate collateral value as compared to the  
18 aggregate debt stack.

19 Q So are you saying you -- that it doesn't matter to you,  
20 then, whose -- whether it's first lien or second lien  
21 collateral when you applied it here?

22 A For our analysis, it did not. It did not matter. We  
23 did assume that the first liens would look to cash to  
24 satisfy their debt first. We did make that assumption.

25 Q Was it your understanding that the second lien -- part

1 of the second lien collateral included proceeds from the  
2 sales of inventory?

3 A Yes.

4 Q And are you aware that the Debtor had a cash management  
5 system into which the proceeds of inventory would flow?

6 A Yes.

7 Q Okay. Now, you were asked about, I believe, it's a \$34  
8 million post-petition interest accrual that Mr. Griffith  
9 applied. Do you recall that?

10 A Yes.

11 Q Okay. Now, is it your understanding that that was  
12 interest that was outstanding at the petition date or is --  
13 was it an assumption about what interest would accrue after  
14 the petition date?

15 A The latter. By definition, it's post-petition interest  
16 that was calculated to some degree and therefore it was  
17 subsequent to the petition date.

18 Q So in your understanding, it was not an amount of  
19 interest which was outstanding at the petition date,  
20 correct?

21 A Correct, and such is why we did not include it as part  
22 of the debt at the petition date.

23 Q Okay. Now, I think you may have answered this when you  
24 used the word contrived, but I just want to be clear. Is  
25 your -- Mr. Griffith applies this 85 percent number to the

1 total inventory of \$2,690,000,000. Is that your  
2 understanding?

3 A Yes.

4 Q Okay. And as of the petition date, in your view, is it  
5 a fair view of fair market value to assume that the  
6 inventory value is only 85 percent of its book value at the  
7 petition date?

8 A No.

9 Q And why not?

10 A For the reasons that I stated before, which are a  
11 couple. One is even in liquidation, the liquidation value  
12 is approximately 96 percent, not 85 percent. Second, it  
13 ignores the fact that inventory was sold at retail in the  
14 going-forward stores that yields a much higher valuation  
15 than, by definition, than liquidation value. And as 85  
16 percent, the stores would never be in business, if that was  
17 the fair market value of the inventory at retail in a go-  
18 forward operation.

19 Q Now, you were asked about Mr. Griffith's assumption  
20 about 506(c) expenses and whether you had analyzed his  
21 assumptions. Do you recall that?

22 A Yes.

23 Q Did you look at the amounts that he asserted should be  
24 surcharged against the second lien collateral under 506(c),  
25 laying aside the legal expense?

1 A We did look at it.

2 Q And what was your view when you looked at it?

3 A Well, we thought it was, A, duplicative. I mean -- but  
4 again, even at 85 percent, if you assumed that was a  
5 liquidation value, that would be net of direct selling  
6 expenses and in the stack of 506(c) charges that were  
7 identified by Mr. Griffith, he incorporated direct selling  
8 expenses, a considerable degree of direct selling expenses.  
9 So to us, that was even on the surface, duplicative and  
10 there was no way to discern how those numbers were derived.

11 Q When you say there was no way to discern how those  
12 numbers were derived, can you explain what you mean by that?

13 A Well, there was no (indiscernible). It was just -- it  
14 was merely stated that these are the 506(c) charges that we  
15 believe exist and there was no -- there was no provision of  
16 any backup or how those -- or description as to how those  
17 numbers were derived.

18 Q Okay. And you were at Mr. Griffith's deposition,  
19 weren't you?

20 A I was.

21 Q And did he -- was he able to explain then about how he  
22 derived the 506(c) numbers?

23 MR. GENENDER: I'm going to object, Your Honor.

24 His testimony is what it is.

25 THE COURT: His what?

1 MR. GENENDER: His testimony is what it is.

2 THE COURT: Well --

3 MR. GENENDER: He's asking to comment.

4 THE COURT: I think you're setting up the next  
5 question, right? Is this a foundation question?

6 MR. FOX: Yes.

7 THE COURT: Maybe you should rephrase it.

8 Q Do you recall, Mr. --

9 A Henrich.

10 Q -- Henrich -- see what happens? Do you recall Mr.  
11 Griffith's testimony at his deposition about his schedule of  
12 506(c) charges?

13 A Yes.

14 Q Okay. And do you recall whether there was any analysis  
15 -- or, I'm sorry, that there was any -- did he say whether  
16 he had any backup to the numbers that he was asserting?

17 THE COURT: All right, I will sustain the  
18 objection.

19 MR. FOX: That's fine, Your Honor. I'm almost  
20 finished.

21 THE COURT: Okay.

22 MR. FOX: Thank you, Your Honor. That's all.

23 THE COURT: Okay. Any re-cross?

24 MR. GENENDER: Very briefly, Your Honor.

25 THE COURT: Okay.

1 RE-CROSS EXAMINATION OF WILLIAM HENRICH

2 BY MR. GENENDER:

3 Q Mr. Henrich, did you do anything to independently test  
4 the 29 percent gross margin you used other than rely on the  
5 records you referred to?

6 A No.

7 Q You referred to a presentation to the UCC by M3. Do  
8 you recall being asked about that?

9 A Yes. I mean, that wasn't the only place that the 29  
10 percent appeared, but yes.

11 Q What was the date of the presentation?

12 A Sincerely don't recall. I don't recall the exact date.

13 MR. GENENDER: Thank you.

14 THE COURT: Do you have any questions on that?

15 MR. FOX: No, Your Honor.

16 THE COURT: So, Mr. Henrich, you said that  
17 evaluation of the inventory for the going-forward stores is  
18 less than 100 percent, specifically 85 percent, those stores  
19 wouldn't be in business. They wouldn't be profitable  
20 stores? You remember that testimony?

21 MR. HENRICH: Yes.

22 THE COURT: So are you assuming, then, that all  
23 the profit in the stores is in the inventory? Is that a  
24 necessary assumption for that statement?

25 MR. HENRICH: As opposed to the other parts of the

1 Sears --

2 THE COURT: As opposed to the people, the real  
3 estate, the location.

4 MR. HENRICH: Oh, no, I wasn't -- but as an  
5 ongoing -- but I said as a going concern business, it  
6 wouldn't be a going concern business. Would there be other  
7 value in property? Sure. But I mean as a going concern  
8 business.

9 THE COURT: So in other words, you're attributing  
10 the profit in those going concern stores and sending it to  
11 the inventory line?

12 MR. HENRICH: Well, the stores are there to  
13 merchandise and sell inventory and gain -- and generate a  
14 contribution to be able to pay, to contribute to overhead  
15 and other costs of the business. If you're generating  
16 materially less than what the inventory cost you to begin  
17 with, then you're not generating any contribution to  
18 overhead.

19 THE COURT: But -- okay, but your allocation of  
20 costs is largely after the fact, right, for corporate  
21 overhead and four-wall costs, et cetera?

22 MR. HENRICH: Well, we tried --

23 THE COURT: For going forward.

24 MR. HENRICH: Well --

25 THE COURT: I understand your analysis on the GOB

1 sales.

2 MR. HENRICH: Right. Well, we -- what we did was  
3 try to look at normalized operations and for -- and we  
4 needed to attribute to this volume of collateral, right, so  
5 we looked at applying percentages that seemed to be  
6 appropriate for normalized operations. But I would add to  
7 Your Honor -- and I know that, somewhat ancillary, but we  
8 had generated approximately \$400 million of -- close to \$400  
9 million of cushion in the comparison of the value of the  
10 collateral to the debt.

11 Even if you eliminated the entire net margin on  
12 the go-forward stores that we incorporated which was about 4  
13 percent on \$2.7 billion, so it's about \$110 million, you'd  
14 still be well over collateralized.

15 THE COURT: Making the other assumptions about the  
16 first lien debt and the rest?

17 MR. HENRICH: Correct.

18 THE COURT: Right.

19 MR. HENRICH: Correct.

20 THE COURT: Okay. All right. Anything on that?

21 MR. FOX: Nothing further.

22 THE COURT: Okay. You can step down.

23 MR. HENRICH: Thank you.

24 THE COURT: Okay. How long do you think your  
25 cross will be of Ms. Murray?

1 MR. GENENDER: Shorter.

2 THE COURT: Okay. All right. So unless people  
3 are dying to take a break, should we just go ahead with Ms.  
4 Murray, then?

5 MR. FOX: That'd be great.

6 THE COURT: Okay.

7 MR. FOX: Your Honor, at this time, we'll call  
8 Marti Murray.

9 THE COURT: Okay. Okay, would you raise your  
10 right hand, please? Do you swear or affirm to tell the  
11 truth, the whole truth, and nothing but the truth, so help  
12 you God?

13 MS. MURRAY: I do.

14 THE COURT: Could you spell your last name,  
15 please?

16 MS. MURRAY: M-U-R-R-A-Y.

17 THE COURT: Okay. All right, and Ms. Murray, you  
18 also submitted an expert report in connection with these  
19 contested matters in a declaration. Sitting here today,  
20 knowing that those would be your direct testimony, is there  
21 anything you want to change in it?

22 MS. MURRAY: I have one clarification, Your Honor.

23 THE COURT: Okay.

24 MS. MURRAY: Paragraph 15 in my declaration  
25 contains a correction to Paragraph 104 in my report. In

1 Paragraphs 104 of my report, I say that the proposed  
2 surcharge would equal 62 percent of the \$2.457 billion of  
3 non-cash collateral. That \$2.457 billion number actually  
4 included a cash balance of 123.2, so the correct value of  
5 the non-cash collateral is \$2.334 billion which is stated in  
6 the declaration.

7 THE COURT: Okay. And that affects the percentage  
8 number, too?

9 MS. MURRAY: I'm sorry?

10 THE COURT: Did that affect -- would that affect  
11 the percent, too --

12 MS. MURRAY: It did not.

13 THE COURT: -- or just the number?

14 MS. MURRAY: The percent is correct.

15 THE COURT: Percent was correct. Okay. All  
16 right. Okay. You can go ahead with cross.

17 MR. GENENDER: Thank you, Your Honor.

18 CROSS EXAMINATION OF MARTI MURRAY

19 BY MR. GENENDER:

20 Q Good afternoon, Ms. Murray.

21 A Good afternoon.

22 MR. GENENDER: Your Honor, may I approach the book  
23 for her?

24 THE COURT: Yes.

25 MR. GENENDER: (Indiscernible).

1 THE COURT: Thanks.

2 Q Ms. Murray, you performed a liquidation analysis as of  
3 the petition date, correct?

4 A I performed evaluation analysis as of the petition  
5 date, correct.

6 Q And you did it by taking the net inventory value from  
7 the borrowing base certificate and applying -- adding an  
8 amount for inventory in transit and then applying an 88.7  
9 percent NOLV percentage, correct?

10 A I applied 88.7 percent net orderly liquidation value to  
11 the eligible inventory and then I assessed a certain value  
12 for in-transit inventory.

13 Q Yes. Do you have the small spiral-bound book in front  
14 of you? Can you turn -- do you have the first page that  
15 says 507(b) diminution calculation in front of you?

16 A Yes.

17 Q And there's a column with your name above it. You see  
18 that?

19 A Yes.

20 Q And what you just said is -- you started with the  
21 eligible inventory of \$2.391 billion, correct?

22 A I don't have the source documents in front of me. I'm  
23 only looking at your analysis.

24 Q Well, if you turn to the next page, it's the borrowing  
25 base certificate. You see where it has net eligible

1 inventory at 2.391 billion? The next tab, Ms. Murray, next  
2 tab.

3 A Yes.

4 Q Okay. And you said you applied 88.7 percent, which is  
5 the NO- -- same NOLV percentage on the borrowing base  
6 certificate, right?

7 A Correct.

8 Q You applied that to 2.319, the net eligible inventory,  
9 and then added an amount for in-transit; is that correct?

10 A I did.

11 Q And you came up with an inventory value of \$2.196  
12 billion; is that right?

13 A That is the minimum inventory value.

14 Q I understand you have an alternative. I'm operating  
15 under your lower number.

16 A Okay.

17 Q Is that correct?

18 A Yes.

19 Q Okay. And you relied -- and did you rely upon the  
20 Tiger report, which is in your notebook as Exhibit 4, in the  
21 larger notebook as Exhibit 4; did you rely upon that for the  
22 88.7 percent NOLV figure?

23 A Yes.

24 Q And the Tiger report is an inventory appraisal prepared  
25 by Tiger Valuation Services, right?

1 A Correct.

2 Q Tiger and its affiliated companies provide an appraisal  
3 and liquidation services to retail, wholesale and industrial  
4 companies; that's what they do, right?

5 A Yes.

6 Q Did you perform any independent analysis or  
7 verification of any of the information in the Tiger report?

8 A I prepared an analysis verifying the appropriateness of  
9 the net orderly liquidation value percentage that they  
10 concluded.

11 Q Did you do any independent verification of actually the  
12 assets that they appraised, or did you simply rely upon the  
13 Tiger appraisal?

14 A The assets they appraised were assets that were -- or  
15 that don't -- aren't -- don't exist anymore, so it wouldn't  
16 be possible for me to do an independent evaluation of the  
17 actual assets that they appraised.

18 Q So you just relied on the Tiger report.

19 A I relied on the Tiger report, which incorporates  
20 information that Tiger received from management.

21 Q Thank you. You didn't conduct your own appraisal of  
22 the inventory to determine its value at petition date, did  
23 you?

24 A I think I did. I applied --

25 Q By using the Tiger report?

1 A I applied what I viewed as reasonable and conservative  
2 assumptions about a net orderly liquidation value to the  
3 borrowing base certificate that reflected the state of the  
4 inventory as of October 13, 2018.

5 Q And your figure for the inventory value for your first  
6 case is approximately \$92 million less than the inventory  
7 value calculated by Mr. Griffith, correct?

8 A I can't do that calculation sitting here.

9 Q But yours is 2.196 and his is 2.287. Do you see that?

10 A Yes.

11 Q Okay.

12 A That's not an apples-to-apples comparison.

13 Q I'm just asking if your net inventory number -- if your  
14 inventory number is 2.196; is that right?

15 A Yes.

16 Q Thank you.

17 A On a net orderly liquidation value basis.

18 Q I understand that; that's your testimony. And you  
19 included credit cards rec- -- then you added to that figure  
20 credit card receivables, cash, scripts and pharmacy  
21 receivables; is that right?

22 A Correct.

23 Q And you got the credit card receivable figure from the  
24 borrowing base certificate, right?

25 A Yes.

1 Q And then the -- you have a different number from case -  
2 - for cash than Mr. Schulte and Mr. Henrich; is that right?

3 A Yes.

4 Q All right. Where did you get that number from?

5 A It's from the statement of financial affairs that was  
6 filed by the debtors.

7 Q And are you offering an opinion that cash, scripts and  
8 pharmacy receivables are 2L -- are 2L collateral?

9 A What I stated is that I -- my analysis is based on the  
10 assumption that the cash represents proceeds from inventory  
11 and receivables.

12 Q You didn't perform any sort of analysis to determine  
13 what percentage or what amount, if any, of that cash arise  
14 from inventory proceeds, correct?

15 A I did not. I relied on the assumption that it was  
16 proceeds from inventory and receivables.

17 Q You did not do analysis, correct?

18 A Correct.

19 Q Thank you. If you can turn to the tab in the small  
20 bound book that says JX-6 and 7. It has excerpts from  
21 Exhibits -- Joint Exhibits 6 and 7, the 1L and 2L security  
22 agreements. Do you have that in front of you?

23 A I do.

24 Q And you'll agree -- did you review these documents as  
25 part of your work in this case?

1 A I did.

2 Q And you'll agree that the 1L, the excerpt on collateral  
3 for the 1L security agreement specifically enumerates  
4 pharmacy receivables -- all pharmacy receivables, all  
5 prescription lists, and all cash and cash equivalents,  
6 correct?

7 A Yes.

8 Q And those corresponding items are not specifically  
9 enumerated in the 2L security agreement definition of  
10 collateral in Section 2.1, correct?

11 A They're not specifically enumerated.

12 Q Thank you.

13 MR. GENENDER: Your Honor, bear with me. I'm just  
14 skipping some things that we've already covered.

15 Q Ms. Murray, are you aware if the company generates cash  
16 from things besides selling inventory?

17 A The company is a retailer, so I would assume that most  
18 of the cash that it generates is from the sell of inventory.  
19 It could, from time to time, generate cash from the sale of  
20 assets.

21 Q Okay. Ms. Murray, that's not my question, though. Are  
22 you aware that Sears generates cash from things besides  
23 selling inventory?

24 A I'm sorry. Could you --

25 Q Sure.

1 A I have hearing loss.

2 Q No, I know.

3 A So I sometimes can't catch.

4 Q If I don't keep my voice up, please let me know. Okay?

5 A Thank you.

6 Q You bet. Are you aware that Sears generates revenue --  
7 cash -- from things other than selling inventory in stores?

8 A Yes.

9 Q That would include Home Services, right?

10 A Yes.

11 Q That would include warranties, right?

12 A Yes.

13 Q Did you perform any tracing analysis in connection with  
14 your figure of \$123 million of cash that's in your report?

15 A No.

16 Q Thank you. Ms. Murray, if you look at the 507(b)  
17 demonstrative, that first page we were looking at. You'd  
18 agree that by including cash, scripts and pharmacy  
19 receivables, that that's approximately \$206 million of your  
20 total collateral figure of 2.457 billion; is that right?

21 A I'm sorry. What was the question?

22 Q Sure. You see -- if you -- would you agree that your  
23 inclusion of cash, scripts and pharmacy receivables total  
24 about \$206.5 million?

25 A It sounds about right.

1 Q Okay, thank you.

2 A I don't know have my calculator here.

3 Q Thank you. And you did not include the two letters of  
4 credit as part of 1L debt, did you?

5 A I did not.

6 Q And you did that -- you excluded them because they were  
7 not fully drawn, right?

8 A I excluded them because they represent contingent  
9 obligation. They weren't funded as of the filing date;  
10 therefore, including them was not consistent with what was  
11 known as the filing date. And I also excluded them because  
12 only 9.1 million of them were drawn between the filing date  
13 and May 2019; and, therefore, it wouldn't have been knowable  
14 as the filing date that the amount would have been drawn.

15 Q You included a chart as part of your declaration and  
16 report that reflected their 89.1 percent of the debtors' LCs  
17 related to workers' compensation insurance and surety bonds,  
18 correct?

19 A If you represent that's the percent in the report, I  
20 don't have the report in front of me.

21 Q You do have it in front of you, but I'm going to save  
22 time and --

23 A Okay.

24 Q -- I will represent that your chart says 89.1 percent.  
25 Will you accept that representation?

1 A Sure.

2 Q Thank you. Workers' compensation, those sorts of  
3 obligations can arise 20 to 30 years into the future, can't  
4 they?

5 A I don't know that.

6 Q Okay, thank you. Are you aware that the two letters of  
7 credit formed \$395 million of the \$5.2 billion purchase  
8 price under the asset purchase agreement?

9 A I'm aware that those facilities were assumed under the  
10 asset purchase agreement.

11 Q In other words, they had to be dealt with under the  
12 APA, correct?

13 A The facilities had to be dealt with, but the --  
14 certainly that amount was not drawn.

15 Q Are you -- you're aware that there are ongoing annual  
16 insurance payment obligations associated with the letters of  
17 credit, aren't you?

18 A I am aware that there are insurance premiums that are  
19 paid in the normal course of business for the company.

20 Q You did not include -- I want to switch to 506(c). You  
21 didn't include a 506(c) surcharge in your analysis, correct?

22 A I think that, while I don't call it a 506(c) surcharge,  
23 my understanding of what a 506(c) surcharge is is included  
24 in my analysis, which is the cost necessary to maintain and  
25 preserve the collateral. And I believe that that's already

1 incorporated into the net orderly liquidation value  
2 percentages that I posed.

3 Q And you believe that by taking 88.7 percent of the net  
4 inventory figure that that takes into account what would  
5 otherwise be 506(c) type expenses; is that fair?

6 A I think it takes into account what my understanding is  
7 of what a 506(c) surcharge is supposed to represent, which  
8 is the necessary cost of maintaining and preserving a  
9 collateral. And based on my review of the Tiger appraisals,  
10 that -- those costs are already included; both direct and  
11 indirect expenses are deducted from the gross recovery on  
12 the inventory to get to the net orderly liquidation value.

13 Q And you contend that the Tiger report that you relied  
14 on for your NOLV figure includes those expenses, correct?

15 A I do.

16 Q And you testified to that fact at your deposition,  
17 correct?

18 A Yes.

19 Q And you didn't do any sort of independent verification  
20 of those -- of that figure, correct?

21 A I did in the sense that I verified that the information  
22 that the Tiger appraisal reports is based on came from the  
23 management of the company.

24 Q How did you do that?

25 A It's mentioned throughout in the Tiger appraisal report

1 that they're relying on information from the company.

2 Q But you didn't do anything independent of reviewing and  
3 relying upon the Tiger report itself, correct?

4 A Well, I did because there were other data points in  
5 terms of net orderly liquidation value that ran through the  
6 case. And so, I could compare and see that the 88.7 percent  
7 net orderly liquidation value that I was using was lower  
8 than what other parties were using to calculate net orderly  
9 liquidation value, because what the evidence indicates that  
10 other parties used values ranging from 90 percent up to 93  
11 percent, including direct and indirect costs in getting to  
12 that 90 to 93 percent.

13 Q The Tiger report does not include all expenses that  
14 will be incurred in a going concern sales scenario, does it?

15 A No. Because the premise -- well, the premise of value  
16 that I used in my report was net -- company-wide going-out-  
17 of-business sales orderly liquidation.

18 Q And that leads me to my next question. You did a  
19 valuation as of petition date that assumed an orderly  
20 liquidation of Sears, correct?

21 A I did.

22 Q An orderly liquidation of Sears is not what happened in  
23 February of 2019, correct?

24 A Fortunately, Sears was able to not have an orderly  
25 liquidation. However, as a valuator, I have to deal with

1 what's known or knowable as of the measurement date.

2 Q So I just want to be clear because the rest of left for  
3 the Court. You did a valuation as of the petition date that  
4 is different than what actually happened in this case,  
5 correct?

6 A At the end, yes.

7 Q Thank you. The types of expenses that the Tiger report  
8 doesn't capture but that would occur in a going concern  
9 scenario, such as we have here, will be professional fees,  
10 financing fees, or perhaps post-petition interest, correct?

11 A I -- there are some professional fees that are included  
12 in an orderly liquidation valuation analysis. There may be  
13 other professional fees that aren't included. I don't have  
14 enough visibility into that. And interest is not included.

15 Q Ms. Murray, you didn't do any calculation for 506(c)  
16 surcharges in a going concern scenario, correct?

17 A Correct.

18 Q Thank you. So I want to go back to the 507(b) chart.  
19 Ms. Murray, to wrap this up, your collateral number under  
20 this scenario is about 125 -- your total collateral figure  
21 of 2.457 billion is about \$125 million more than Mr.  
22 Griffith's calculation, correct?

23 A I don't believe that's correct because I don't think  
24 it's an apples-to-apples comparison.

25 Q Okay. Well, would you agree that \$2.457 billion is

1 about \$125 million more than 2.334 billion?

2 A I would agree mathematically --

3 Q Thank you.

4 A -- that's correct.

5 Q And your 1L deck number is \$429 million less than Mr.

6 Griffiths because of -- because you don't include the two

7 letters of credit to the tune of 395 million and you don't

8 include post-petition interest, correct?

9 A I don't include the letters of credit and I don't

10 include post-petition interest, correct.

11 Q And that makes your number \$429 million less than Mr.

12 Griffiths, correct?

13 A If you represent that's the math.

14 Q Thank you. And 429 million plus 125 million difference

15 in collateral value is about 550 million, correct? Rough

16 math?

17 A I don't have my calculator here.

18 Q Okay.

19 A And it's not calc- -- if it's not -- it's not

20 calculated on the page.

21 Q Okay. Then will you accept my -- the numbers are what

22 they are, right? If you took those numbers, if you

23 subtracted those numbers from your total 507(b) calculation

24 of 492 million, you end up with about negative 60, wouldn't

25 you?

1 A In the minimum case.

2 Q Thank you very much.

3 A And assuming that all of those hypothetical  
4 calculations are appropriate.

5 Q Thank you.

6 MR. GENENDER: Pass the witness.

7 THE COURT: Okay. Redirect?

8 MR. LIUBICIC: Yes, Your Honor.

9 REDIRECT EXAMINATION OF MARTI MURRAY

10 BY MR. LIUBICIC:

11 Q So Ms. Murray, you were asked some questions about your  
12 reliance on the Tiger appraisal. Do you recall that?

13 A Yes.

14 Q Okay. And Ms. Murray, are you a certified valuation  
15 analyst?

16 A I am.

17 Q And are you familiar with the National Association of  
18 Certified Valuation Analysts?

19 A I am.

20 Q Can we call that NACVA?

21 A Yes.

22 Q Does NACVA have professional standards that guide  
23 valuation practice?

24 A It does.

25 Q And do those standards speak to reliance on third-party

1 specialists?

2 A Yes.

3 Q And what do those standards say about reliance on  
4 third-party specialists?

5 A That as evaluator, it's appropriate in some cases to  
6 rely on third-party specialists to value specific types of  
7 assets.

8 Q Do you consider Tiger a third-party specialist?

9 A I do. I consider both Tiger and Abacus specialists in  
10 the valuation of inventory.

11 Q And why did you consider it appropriate to rely on  
12 Tiger for aspects of your analysis?

13 A Because the work of Tiger is a specialist in evaluation  
14 of inventory. Tiger had been retained by the collateral  
15 agent for the banks. And the banks had an interest in  
16 having the collateral appropriately valued so that they knew  
17 what they were lending against and, therefore, I viewed the  
18 Tiger appraisals as being conservative. And I felt that  
19 they also did not include in their inventory that they were  
20 applying the NOLV to certain categories of inventory that I  
21 felt likely had value. And so, they were done  
22 contemporaneously right around the time of the filing, and  
23 they were not done in a context of litigation.

24 Q Do you know whether Sears' management relied on Tiger?

25 A Sears' management relied on Tiger in determining the

1 borrowing base percentages.

2 Q And now a minute ago, you mentioned Abacus; what's  
3 Abacus?

4 A Abacus is a professional firm that specializes in  
5 helping retailers liquidate inventory. Prior to the filing,  
6 they had assisted the debtor liquidate between 700 and 800  
7 stores. And they were retained as part of the bankruptcy to  
8 assist with the going-out-of-business store sale process  
9 during the bankruptcy, and they also provided a bid to  
10 liquidate the remaining stores if the company decided to go  
11 down the route of a company-wide going-out-of-business sale.

12 Q And in addition to Tiger, does the work of Abacus  
13 inform your expert analysis?

14 A I'm sorry?

15 Q In addition to Tiger, does the work of Abacus inform  
16 your expert analysis?

17 A It does.

18 Q How so?

19 A Because it's another firm that specializes in valuing  
20 and liquidating inventory, working with the debtors'  
21 management to determine what the debtor would realize if the  
22 debtor were to pursue a company-wide going-out-of-business  
23 sale.

24 Q And did Abacus put forth any values that you rely on in  
25 your report?

1 A Yes, they did.

2 Q And what were those?

3 A Those values were in a range of approximately 90 to 93  
4 percent, NOLV percentage.

5 Q Those were NOLVs.

6 A Yes.

7 Q Okay. Did your work evaluate data put forth by anyone  
8 other than Tiger or Abacus?

9 A Yes.

10 Q How so?

11 A The debtors' chief restructuring officer, Mr. Meghji,  
12 had put together a winddown plan for the company in which he  
13 had assumed a 90 percent NOLV. The unsecured creditors'  
14 committee had also put forward an analysis of a winddown, in  
15 which they as well had assumed a 90 percent NOLV.

16 Q And did you rely on statements by Sears' CFO, Mr.  
17 Riecker in your analysis?

18 A Yes.

19 Q Can you describe that please?

20 A Yes. Mr. Riecker had a declaration in November of  
21 2015, in which he stated that the net orderly liquidation  
22 value of the inventory was 2.74 billion.

23 Q And I think you just said November of 2015. Is that  
24 what you meant to say?

25 A I meant -- no, I'm sorry -- November of 2018.

1 Q Now, Ms. Murray, could you look at the very thin volume  
2 that Mr. Genender asked you about, and specifically at the  
3 first tab, the 507(b) diminution chart. Now, do you recall  
4 that when Mr. Genender asked you about the inventory value  
5 row and the comparison of your inventory valued and Mr.  
6 Griffith, you said that that was not apples-to-apples?

7 A Yes.

8 Q Okay. I think later, you also said that comparison  
9 would not be apples-to-apples when it came to the total  
10 collateral row. Do you recall that?

11 A Yes.

12 Q What did you mean when you said the comparison to  
13 Griffith -- Mr. Griffith was not apples-to-apples?

14 A My inventory valuation is after the costs to maintain  
15 and preserve the value of the collateral; whereas, Mr.  
16 Griffith's inventory valuation is before costs to preserve  
17 and maintain the collateral. And if you subtract what he is  
18 saying are the necessary costs, which is the 1.451 billion,  
19 you get a very low value for the inventory.

20 MR. LIUBICIC: I'll pass the witness.

21 THE COURT: Okay.

22 RECROSS-EXAMINATION OF MARTI MURRAY

23 BY MR. GENENDER:

24 Q Ms. Murray, did you -- you didn't undertake to do any  
25 sort of valuation of the 2L collateral as of the sale date,

1 February 11th, 2019, correct?

2 MR. LIUBICIC: Objection, Your Honor. Beyond the  
3 scope of the redirect.

4 THE COURT: It is, I think.

5 Q Did you perform any analysis of any assets sold pre- or  
6 post-petition other than inventory?

7 A No.

8 Q Did you perform any analysis of the actual costs  
9 incurred in these cases, the actual costs?

10 A No.

11 MR. GENENDER: Thank you, Your Honor.

12 THE COURT: Ms. Murray, you testified about  
13 relying in part on the Tiger appraisal. And your  
14 assumption, I think, was that the liquidation would take  
15 place over -- was it 11 weeks?

16 MS. MURRAY: Yes.

17 THE COURT: And that is a sale period that Tiger  
18 puts in its appraisal. Are you aware that it also has a  
19 six-month sale appraisal, a six-month liquidation analysis?

20 MS. MURRAY: Can you direct me to it?

21 THE COURT: It was on Page 10 of their report.

22 MS. MURRAY: The Tiger appraisal?

23 THE COURT: Yeah, of the Tiger report.

24 MS. MURRAY: Yeah. I'm familiar with that. I  
25 think what that is is if the sale is started in that month,

1 what they expected the percentage recovery to be.

2 THE COURT: So this isn't -- I was trying to  
3 figure out what this meant. You read this to mean that it's  
4 still an 11-week process?

5 MS. MURRAY: Correct.

6 THE COURT: But that the money would come in over  
7 a period of six months?

8 MS. MURRAY: That if they --

9 THE COURT: I'm just trying to figure out what it  
10 means. You tell me what you think this is.

11 MS. MURRAY: So if you read the first paragraph  
12 there, it says, "Based upon company provided monthly  
13 inventory projections, blended net recovery values for GOB  
14 retail inventory and wholesale inventory were forecast for  
15 sales commencing at the beginning of each of the six months  
16 from October 2018 through March 2019."

17 So what I interpreted that to mean is if you  
18 started the sales, the company-wide GOB in October 2018,  
19 this is what you would get.

20 THE COURT: Over that six-month period.

21 MS. MURRAY: Over the -- no, over the 11-week,  
22 over the period.

23 THE COURT: And then if you started it in  
24 November/December, it'd be different each time.

25 MS. MURRAY: Correct.

1 THE COURT: I see. Okay, thanks. Anything on  
2 that?

3 MR. GENENDER: Nothing further, Your Honor.

4 THE COURT: Okay. You can step down. Okay.

5 MR. GENENDER: Your Honor, does that conclude the  
6 second lienholders evidentiary portion?

7 THE COURT: Well, that's a good point. Does it,  
8 other than on rebuttal, I guess?

9 MR. MOLONEY: Your Honor --

10 THE COURT: You got to cross-examine obviously on  
11 the 506 and 507.

12 MR. MOLONEY: Correct. We're going to cross-  
13 examine on 506(c). And I assume that all of the  
14 designations are in evidence, that we all both designated  
15 deposition testimony.

16 THE COURT: I think that's what's agreed, right?

17 MR. MOLONEY: Right.

18 THE COURT: Except for the footnote that you  
19 referred me to earlier.

20 MR. MOLONEY: Then I think we've rested on this  
21 section of the case.

22 THE COURT: Okay.

23 MR. GENENDER: Your Honor, if I may. In light of  
24 the fact that the second lienholders have rested, the  
25 debtors will respectfully move on our 3012 motion under the

1 grounds that the second lienholders have not met their  
2 burden to establish, under 507(b), a diminution of value and  
3 would submit that if you take into account under any of the  
4 evidence they put forward -- the letters of credit, the  
5 items included which shouldn't have been included, they  
6 didn't do tracing, and the fact that one witness did an  
7 analysis, the last witness did an analysis that's the wrong  
8 analysis for when you have a going concern and the other  
9 witnesses --

10 THE COURT: Well, I get the point. I'm not going  
11 to -- I'm going to take a break though for lunch --

12 MR. GENENDER: Fair enough.

13 THE COURT: -- before I hear that --

14 MR. GENENDER: Thank you.

15 THE COURT: -- that motion.

16 MR. GENENDER: I just want to make for the record.

17 THE COURT: That's fine.

18 MR. GENENDER: Thank you.

19 THE COURT: While you're at lunch, I'd like the  
20 parties to consider the effect, if anything, on the 507(b)  
21 analysis of the carveout under the DIP order and cash  
22 collateral order. It appears on Page 61, Paragraph 21 of  
23 the final order.

24 And there are also references to it in connection  
25 with the 507(b) claim that's in subparagraph (d) that starts

1 53 and carries over to Page 54, which says that such  
2 adequate protection claims shall be junior to, among other  
3 things, the carveout. And the carveout until  
4 (indiscernible) includes all the -- well, you can read it,  
5 but it includes all the professional fees, with a limited  
6 exception for success fees, although there's an exception to  
7 that on Page 66.

8 No one's really addressed this in their papers,  
9 and I'd like you to tell me how it affects the 506 -- I'm  
10 sorry, the 507(b) analysis, since the 507(b) claim is  
11 subject to those amounts. And I think it probably also  
12 affects the 506(c) analysis.

13 I'd also like you to address where in the record  
14 there's anything as to the status of the winddown account.  
15 And, obviously, there's a stipulation that was entered into  
16 that is part of the record that puts the winddown account in  
17 play for a certain period. But I'm just curious as to how  
18 that affects the analysis of the 507(b) claim since I don't  
19 see a deduct for it anywhere for the carveout and, of  
20 course, I don't know what that number is either.

21 THE COURT: Okay. So it's 1:30. Why don't we come  
22 back at 2:30.

23 MR. MOLONEY: Your Honor, we did address that last  
24 question in the Schulte declaration.

25 THE COURT: The winddown.

1 MR. MOLONEY: The winddown.

2 THE COURT: Yeah. I just want to know where in  
3 the record -- I want to make sure I'm clear in where the  
4 record those numbers are.

5 MR. MOLONEY: I have it in my handout, the next  
6 handout. I took it up because you said you weren't going to  
7 talk about the cash collateral order. I thought we weren't  
8 going to get into it, but it is a deduct.

9 THE COURT: When did I say that?

10 MR. MOLONEY: We heard it with those. The debtor  
11 suggested that the cash collateral was not for today.

12 THE COURT: No, no. I'm talking about how it  
13 relates to 507.

14 MR. MOLONEY: Thank you, Judge.

15 THE COURT: It may not relate at all. But if  
16 people are counting that.

17 MR. MOLONEY: It does. It does, Your Honor.

18 THE COURT: Okay. So I would not leave anything  
19 valuable here, but you can leave everything else.

20 [RECESS]

21 THE COURT: Okay. We're back on the record in In  
22 Re. Sears Holdings Corporation, et al.

23 MR. SCHROCK: Good afternoon, Your Honor. Ray  
24 Schrock, Weil Gotshal, for the debtors. Just very quickly,  
25 at least we can give you our view as to the two questions

1 that you asked before we took a break.

2 THE COURT: Okay.

3 MR. SCHROCK: The first question was the effect,  
4 if any, of the carveout on the DIP order on the 507(b)  
5 analysis.

6 THE COURT: Right.

7 MR. SCHROCK: And, Your Honor, in being fair about  
8 that, we do note, as Your Honor correctly noted, that under  
9 the terms of the DIP order, all adequate protection  
10 obligations are junior to the entire winddown account. The  
11 carveout that -- I'm sorry, the carveouts rather. The  
12 carveout funding to date is \$213.4 million; that's something  
13 that Mr. Griffith has personal knowledge of, and he could so  
14 inform the court.

15 We think it affects the analysis is that when you  
16 look at the assets available for 507(b), I think you just  
17 take that number off of the top of what's available for  
18 507(b) claim. So, Your Honor, they could still argue for an  
19 adequate protection, but those assets are simply not there  
20 from the starting delta. When you make those adjustments,  
21 and then we, I think appropriately, would take out some of  
22 the profession- -- you know, we had \$51 million of  
23 professional fees that were in our 506(c) analysis, and we  
24 can have Mr. Griffith walk through some of this when he --  
25 if the Court [AUDIO DISTORTION].

1 THE COURT: (indiscernible) is here.

2 MR. SCHROCK: I don't know how we do it with that  
3 mic? But it's pretty amazing. So that must have said  
4 something to have gotten some --

5 THE COURT: Well, you're saying you take it off  
6 the top.

7 MR. SCHROCK: Yeah, you take it off the top. I  
8 think that's the fair way. Those assets just aren't --  
9 simply aren't available for purposes of the -- I'm not  
10 saying that -- listen, they could still argue, right, for a  
11 507(b) claim that is junior. But I think those assets are -  
12 - they're out of the equation when you look at what's the  
13 starting point from which you start arguing for a 507(b)  
14 claim.

15 On the winddown account itself, Judge, I -- those  
16 assets under the terms of the DIP order were specifically,  
17 you know, they're unencumbered collateral, they weren't  
18 coming out, and they weren't available to the second liens.  
19 Now, we did enter into a stipulation that noted, for any --  
20 if there's -- you know, from April 15th through, you know, I  
21 think it's August 1, if there's something that had to be  
22 reallocated, that's a remedy that's available.

23 If Your Honor found a 507(b) claim, he could  
24 certainly take it out of the account, but I don't see how it  
25 would be really relevant to the 507(b) analysis, per se.

1 But we will have Mr. Griffith available to --

2 THE COURT: Is there anything in that account?

3 MR. SCHROCK: Yes, there's roughly, I think it's  
4 \$53 million is in there, Your Honor.

5 THE COURT: But obviously was nothing there on the  
6 petition date. It's all post-petition.

7 MR. SCHROCK: Correct. It's generated from asset  
8 sales, unencumbered asset sales post-petition. So that's  
9 our view, at least the debtors' view on the questions you  
10 asked.

11 THE COURT: Okay.

12 MR. MOLONEY: Your Honor, may not be a huge  
13 surprise, but it was somewhat (indiscernible). I just get  
14 the documents in front of me and we can kind of walk through  
15 the provisions together. And looking at the DIP order, I  
16 think the first paragraph Your Honor properly directed us to  
17 look at was on Page 49 of the DIP order, Paragraph D. And  
18 you start with the liens, Your Honor, because I think this  
19 exercise, why I wanted to move this to a motion under 3012,  
20 rather than a 507(b) is because that's kind of like the cart  
21 before the horse.

22 The first exercise is to find out, do we have a  
23 claim after the sale order and after all those orders.  
24 Second, if we do have a claim, was it fully secured or  
25 partially secured as to the filing date. And I think that's

1 the second question you have to answer for yourself is find  
2 out what are secured claims at the filing date; then you  
3 have to look at the question of what's left to satisfy the  
4 claim, which in part relates to your question about what  
5 happens to a replacement lien on a winddown account.

6 And only if our adequate protection liens are  
7 inadequate, do we get to 507(b), and we've shown the  
8 diminution in property. So I think, to my mind, that's the  
9 logical way to attack this problem, and I think that's the  
10 way to look at these two provisions. And I think in a big  
11 picture, there's a bargain that was done at the beginning of  
12 this case.

13 The bargain was, we're going to get a junior DIP  
14 in place, we're going to get a senior DIP in place, we're  
15 going to create a separate winddown account. And second  
16 lien creditors, you're not -- you're going to come behind  
17 all those things and you're going to come behind -- and  
18 you're also going to come behind the carveout account in the  
19 sense that you're not going to be able to invade that  
20 account to satisfy your second lien obligations.

21 And the quid pro quo on day one of this case in  
22 the order the Court entered was that we got, under Paragraph  
23 D, an adequate protection lien, and that included for any  
24 diminution in value as a result of this bargain, as a result  
25 of the creation of these accounts. And so since it's a

1 result -- and diminution value is a result of the creation  
2 of the carveout account basically is something which  
3 enhances our ability to have -- ultimately have a 507(b)  
4 claim in this case.

5 So it's not a number that doesn't count. The fact  
6 that they put money into the winddown account means that  
7 that was while we got -- rather, the carveout account,  
8 that's why we got the adequate protection lien because the  
9 property was not going to be our property; and, in fact, was  
10 going to be our collateral. Point of fact, that's what  
11 happened was our collateral, in fact, that funded that  
12 account, including as recently as last week when out of the  
13 \$6 million -- \$8 million ESL turned over right before the  
14 APA hearing, they put \$6 million in the carveout account.  
15 So we funded that account, and the quid pro quo for that was  
16 to the extent that diminished our collateral position, we  
17 got a lien that says.

18 Now, if we go to the second section, Paragraph 18,  
19 dealing with the administrative claims and the two priority  
20 claims of our -- of the second lien creditors, which is on  
21 Page 53, Paragraph D. What this says is that, look, you  
22 have a super-priority claim, but that claim is not going to  
23 trump what assets have been put into the carveout account.  
24 So whatever claim you have, it should never limitation on  
25 your recovery rights with respect to that claim. You can't

1 invade property that's properly in the carveout account.

2 THE COURT: Well, the winddown account isn't  
3 collateral anyway.

4 MR. MOLONEY: We have, but for the stipulation we  
5 entered into at the beginning of the case part of the grand  
6 bargain, which gave us these adequate protection rights, was  
7 that the winddown account was going to be sacrosanct and  
8 we'd have no right to invade it whatsoever. For super-  
9 priority claims, (indiscernible) -- I don't know if you just  
10 gave us a right we don't have under the agreements. We  
11 don't have a 507(b) claim against the winddown account.

12 The only claim we have against the winddown  
13 account is a replacement lien, based on the stipulation Your  
14 Honor entered; otherwise, we have no other claim. That was  
15 part of why that money was set aside because the source  
16 through that --

17 THE COURT: I think you actually agree with the  
18 debtors on that point.

19 MR. MOLONEY: Yeah. Because the source through  
20 that account, remember, was supposed to be from the sale of  
21 unencumbered assets.

22 THE COURT: Right.

23 MR. MOLONEY: And we were not -- and normally, in  
24 a -- there's nothing particularly normal about this case.  
25 With all due respect, I'm coming in late to the normal, you

1 know, from your run of the mill DIP financing, all of the  
2 assets that were unsecured before suddenly become available  
3 for the DIP lenders (indiscernible) as a secured claim or a  
4 507(b) claim. We carved out a \$250 million tranche and said  
5 we don't have that.

6 But, Your Honor, I think the quid pro quo for that  
7 is that we got these 507(b) rights and we got these adequate  
8 protection rights. And, you know, I think what they're  
9 doing -- and this was -- I was going to save this for my  
10 argument, Your Honor, but what they're doing is that they're  
11 kind of reneging on the deal.

12 Fundamentally, this motion is a renege, a renege  
13 on a bargain because they're saying that even though we've  
14 got this right because of our putting money in the carveout  
15 account, we now want to charge you again for the money we  
16 put in the carveout account to reduce your claim, and that  
17 doesn't make any sense.

18 It's also their argument that even though you got  
19 this money specifically because you were going to put in --  
20 we're putting prior debt ahead of you and we're going to use  
21 your collateral to pay the interest on that debt, that's why  
22 we got these rights. Now, we're going to make you pay that  
23 again. I mean, that effectively --

24 CLERK: The microphone.

25 MR. MOLONEY: Sorry. That meant effectively they

1 gave us nothing; effectively. This order was worthless from  
2 the outset because the rights that they were giving to us,  
3 they said effectively we can take back.

4 THE COURT: Well, except there was an agreement to  
5 have the carveout be senior.

6 MR. MOLONEY: We're not quarreling on that. But  
7 what they're saying now is they want to reallocate the  
8 expenses that have been paid.

9 THE COURT: No, I understand that point. I'm just  
10 focusing on the --

11 MR. MOLONEY: I agree with Your Honor; we have no  
12 problem with that. But this reallocation is a renege in  
13 terms of the basic agreement because --

14 THE COURT: What reallocation are you talking  
15 about; the 506(c)?

16 MR. MOLONEY: The 506(c) chart.

17 THE COURT: No, I'm just focusing on the --

18 MR. MOLONEY: Okay.

19 THE COURT: -- on the carveout.

20 MR. MOLONEY: Right. And then, Your Honor, if I  
21 can answer the second question. I have a handout -- if I  
22 can approach the bench -- on the winddown -- on what happens  
23 with your replacement lien. It's the impact for that on our  
24 507(b) claims, and the source from the Schulte report. Your  
25 Honor, may I approach the bench?

1 THE COURT: Sure.

2 MR. SCHROCK: We had a handout too, Judge, but I  
3 decided (indiscernible).

4 THE COURT: Thanks.

5 MR. MOLONEY: This is just saying that -- I know  
6 you have a lot of pieces of paper we dumped on you, and I'm  
7 sorry, Your Honor. But this is from the Schulte  
8 Declaration, which was when you asked for the declaration  
9 (indiscernible) report, it was a little bit different  
10 because it dealt exclusively with the subject.

11 And just to tell you what this tells you, is that  
12 the first column, 4/27 to 7/20, 2019; that brings us to  
13 today. And it just tells you that this is the cash, which  
14 is our cash collateral as replacement liens, that they have  
15 spent in the time we filed our motion saying stop, and they  
16 mull over how --

17 THE COURT: Right. Didn't this all -- this goes  
18 to the winddown issue.

19 MR. MOLONEY: Exactly. And so, that gets us as of  
20 today a \$39 million claim, which we would claim if Your  
21 Honor finds that we were -- that we have a diminution of our  
22 -- if finds, depending on what amount Your Honor finds to be  
23 our secure claim at the beginning, this \$39 million will be  
24 a deduct from that claim before we ever go to 507(b).  
25 Because that would -- because we have our adequate

1 protection liens still are in place, and those adequate  
2 protection liens still have a prior claim on the asset under  
3 the stipulation.

4 Our adequate protection liens also have a prior  
5 claim on the \$71 million that the debtor is projecting to  
6 come in from here on in, which is the second column.

7 THE COURT: Okay.

8 MR. MOLONEY: And that's ahead in the day. I just  
9 wanted you to claim that -- I think that's the way --

10 THE COURT: And there may be a factual -- I don't  
11 know if there's a factual about these numbers as opposed to  
12 how, where there isn't a factual dispute is how the parties  
13 are looking at the winddown account.

14 MR. SCHROCK: Yes, Judge. I mean, our point was  
15 simply that the money -- no one dispute the money in the  
16 carveout account is not -- is senior; and, therefore, we  
17 thought that the appropriate way to deal with it was just to  
18 take it out from the starting point for the 507(b) claim.  
19 They don't have a claim to it. That doesn't meant that they  
20 still don't -- they still can't argue for a diminution in  
21 value claim, but I think the starting point, it's not assets  
22 from which they could --

23 THE COURT: Recover.

24 MR. SCHROCK: -- recover.

25 THE COURT: So you, you -- okay. You don't

1 contend then that this is part and parcel of the adequate  
2 protection bargain; in other words, that they gave up on  
3 recovering on this.

4 MR. SCHROCK: I don't contend that they don't have  
5 an adequate protection claim at all for a bite or two at the  
6 -- you know, a bite or two of the carveout account. I just  
7 think that it's appropriate that the assets from which they  
8 can recover don't include the -- don't include those funds.  
9 They haven't put any proof in as to whether or not that was  
10 even their collateral, of course.

11 THE COURT: Okay.

12 MR. MOLONEY: Your Honor, can I just make one  
13 footnote, just a footnote observation, in essence, for a  
14 future date, but I want to make sure I didn't waive this; is  
15 that when I said that we don't have any claim to the money  
16 in the carveout account. That's two caveats: one, the money  
17 is properly put in the carveout account, and if Your Honor  
18 finds this money was improperly put into the carveout  
19 account that's obviously -- I mean, we reserve on; and  
20 second is it's only for allowed claims, by definition, the  
21 carveout account only allows.

22 THE COURT: Sure, of course. That's right.

23 MR. MOLONEY: Thank you, Your Honor.

24 THE COURT: All right. And to the extent provided  
25 for in the carveout provisions.

1 MR. MOLONEY: Right. Yes, Your Honor.

2 MR. SCHROCK: And, Your Honor, I mean, just -- I'm  
3 not sure if I'm making the point, you know, articulately.  
4 We do have a -- we have a chart that kind of -- we really  
5 view that carveout account; effectively, it makes it senior  
6 debt, you know, and puts it, you know, appropriately in that  
7 category. There's another, you know, \$213.4 million of  
8 senior debt that it's effectively gotten, you know, ahead of  
9 the second lien.

10 THE COURT: Well, that was my -- that's really my  
11 ultimate question, which is the briefing and the  
12 demonstrative of the 507(b) diminution calculations. When  
13 it refers to senior debt; it doesn't refer to that. It  
14 refers to the bank debt.

15 MR. MOLONEY: That's not senior debt, Your Honor.  
16 If that, that clearly under the agreement, that's clearly  
17 not senior debt. It's senior only in the sense that by us  
18 permitting it to be senior, we're given a right -- so  
19 basically, to be reimbursed under our adequate protection  
20 liens and under our 507(b) for money put into that account.  
21 So it's senior -- our agreement --

22 MR. SCHROCK: So you're saying it was their  
23 collateral claim.

24 MR. MOLONEY: Yes. It's not (indiscernible). The  
25 language cannot be clearer in the agreement, Your Honor,

1 when it says that because of any loss -- any loss of value  
2 because of money put into the winddown account will go back  
3 -- I can go back and look at it again under 50- -- but it --

4 THE COURT: I'm not focusing on the winddown. I'm  
5 focusing on the carveout.

6 MR. MOLONEY: Rather, on the carveout account.  
7 Let me just stay with it for a second. On the carveout  
8 account, getting back to originally, because he did not  
9 argue his first time up that it was senior debt put up in  
10 the carveout account. But it says, for adequate protection  
11 liens -- and this is Page 51 -- now where is it -- 49, Page  
12 49. Page 49 says --

13 THE COURT: You'd have a lien against aggregate  
14 net diminution in value of your collateral.

15 MR. MOLONEY: Right, resulting from any  
16 diminution, and diminution includes as a result of the  
17 priming by the second lien facilities and the subordination  
18 to the carveout. So that -- I think that's clear that to  
19 the extent that we become diminished as a result of the  
20 carveout and our new collateral is not adequate, that's our  
21 claim today.

22 MR. FOX: And, Your Honor, with respect to --  
23 Edward Fox. With respect to the first lien point. I don't  
24 have my finger on the section, but the first lien provided  
25 that to the extent that the carveout was funded, the first

1       lien amount was diminished by that same amount, so that they  
2       weren't lending more than the total amount by virtue of the  
3       addition of the carveout funds. So there's not some  
4       additional amount that was funding the carveout that was  
5       added onto the first lien debt that somehow pushed us deeper  
6       into subordination, you know, subordinate us more deeply.

7               But to Mr. Moloney's point is right. Although we  
8       may not be able to invade the professional fee carveout  
9       account itself, the order clearly provides that we're  
10      entitled to adequate protection, both a lien and a super-  
11      priority claim, to the extent that we are subordinated to  
12      the carveout. So the extent that they take money off the  
13      top, put it in the carveout account, we should get a dollar-  
14      for-dollar adequate protection lien or super-priority claim  
15      if they don't have funds available.

16             THE COURT: If it's there.

17             MR. FOX: I'm sorry?

18             THE COURT: If it's there.

19             MR. FOX: Well, we can't --

20             MAN 1: If it's there that (indiscernible)  
21      collateral.

22             MR. FOX: We can't get a lien if it's not there --

23             THE COURT: Right.

24             MR. FOX: -- or if there's no funds available. We  
25      can certainly get a super-priority claim, which will have to

1 be dealt with in some way, shape or form.

2 THE COURT: Okay.

3 MR. FOX: And we have -- one of the joint exhibits  
4 has the very recent status of the cash flow and has at least  
5 some of the current numbers. What's that joint exhibit  
6 number?

7 THE COURT: But then again goes to the stipulation  
8 and the like.

9 MR. FOX: No -- well, it goes to the total number.  
10 If you're interested in seeing what the finances look like--

11 THE COURT: Fine.

12 MR. FOX: -- that's the most recent.

13 THE COURT: Okay. All right.

14 MR. FOX: Judge, just --

15 THE COURT: All right, that's fine. I just wanted  
16 to make sure we were on the same page. And, despite a brief  
17 detour about two minutes ago, I think we are.

18 MR. GENENDER: Okay, fair enough. Are you ready  
19 for us to proceed with our case, Your Honor?

20 THE COURT: Well, you had a motion pending.

21 MR. GENENDER: We did.

22 THE COURT: I thought about it over lunch, and I'm  
23 going to hear from Mr. Griffith anyway on 506(c). I think I  
24 ought to hear him on both issues. And then I'll rule after  
25 hearing oral argument, as opposed to just ruling on the 507

1 case by the 2L creditors.

2 MR. GENENDER: Understood. Your Honor, with that,  
3 we can call -- we're going to call Brendan Aebersold. We've  
4 been told that the other side does not have cross-  
5 examination of him, but we'll call him now and allow you to-  
6 -

7 THE COURT: Okay.

8 MR. GENENDER: -- take his evidence.

9 THE COURT: That's fine.

10 MR. GENENDER: Your Honor, I have a copy of his  
11 declarations for you.

12 THE COURT: Okay, that's fine. Yeah, that would  
13 help. Would you raise your right hand, pleas? Do you swear  
14 or affirm to tell the truth, the whole truth, and nothing  
15 but the truth, so help you God?

16 [WITNESS BRANDON AEBERSOLD SWORN IN]

17 MR. AEBERSOLD: I do.

18 THE COURT: And could you spell your last name,  
19 please, for the record.

20 MR. AEBERSOLD: A-E-B-E-R-S-O-L-D.

21 THE COURT: Okay. And, Mr. Aebersold, you  
22 submitted three declarations in this case -- with respect to  
23 these contested matters. One dated October 15th, 2018 on a  
24 petition date, and then that's really more, I believe, just  
25 standing on its own. But the two that I'm going to ask you

1 about are one dated February 1, 2019 and one dated January  
2 27, 2019. It's the 27 one that would be his direct  
3 testimony, right?

4 MR. GENENDER: That's correct, Your Honor.

5 THE COURT: Okay.

6 MR. GENENDER: It references the other one.

7 THE COURT: All right. The other two are  
8 incorporated in it. So sitting there today, knowing that  
9 the June 27th declaration would be your direct testimony, is  
10 there anything you'd like to change in it?

11 MR. AEBERSOLD: No, Your Honor.

12 THE COURT: Okay, all right. And no cross-  
13 examination; is that correct? Okay. So you can step down  
14 now.

15 MR. AEBERSOLD: Thank you, Your Honor.

16 MR. GENENDER: And then next, Your Honor, the  
17 debtors would call Brian Griffith.

18 THE COURT: Okay.

19 MR. GENENDER: May I approach, Your Honor?

20 THE COURT: Sure. Okay. Would you raise your  
21 right hand, please?

22 MR. GRIFFITH: Yes.

23 THE COURT: Do you swear or affirm to tell the  
24 truth, the whole truth, and nothing but the truth, so help  
25 you God?

1 MR. GRIFFITH: I do.

2 [WITNESS BRIAN GRIFFITH SWORN IN]

3 THE COURT: And it's G-R-I-F-F-I-T-H?

4 MR. GRIFFITH: That's correct, yes.

5 THE COURT: So, Mr. Griffith, you submitted three  
6 declarations in connection with these contested matters: one  
7 dated May 26th, 2019, one dated June 27th, 2019, and one  
8 dated July 18, 2019 that, subject to my earlier ruling at  
9 the start of this hearing, would constitute your direct  
10 testimony in this set of contested matters. Sitting here  
11 today, is there anything you'd like to change in them?

12 MR. GRIFFITH: No, Your Honor.

13 THE COURT: Okay. All right. So you can go ahead  
14 with cross.

15 MR. MOLONEY: Your Honor, may we approach the  
16 bench with a cross-examination binder for the witness as  
17 well?

18 THE COURT: Yeah, that's fine.

19 CROSS-EXAMINATION OF BRIAN GRIFFITH

20 BY MR. MOLONEY:

21 Q Good afternoon, Mr. Griffith. Are you ready?

22 A I am.

23 Q Okay, good. And you're testifying today as a fact  
24 witness and not as an expert, correct?

25 A That's correct.

1 Q And you did not submit an expert report, correct?

2 A I have not.

3 Q And were you aware that there was an agreement among  
4 the parties to provide any document relied upon by the  
5 expert in his report for his or her conclusion one business  
6 date following delivery of the expert report?

7 A I wasn't aware of that, but I'm not an expert witness.  
8 I'm a fact witness.

9 Q Would you look at the -- at Exhibit 2 in your binder?  
10 And if you look at that email, I take it that you were not  
11 aware of this agreement, that the parties agreed to exchange  
12 backup material for expert reports one day after reports  
13 were filed, correct?

14 MR. GENENDER: Your Honor, I'm going to object.  
15 This is an (indiscernible).

16 THE COURT: Well, he can -- are you aware of it?

17 MR. GRIFFITH: I'm not aware of it.

18 THE COURT: Okay.

19 Q And you didn't deliver any documents to the second lien  
20 parties that were backed up to your declaration one day  
21 after you filed -- one day after they were filed before your  
22 deposition, correct?

23 A I'm not sure I follow the question.

24 Q Your second declaration was filed a few days before  
25 your deposition, correct?

1 A That sounds correct, yes.

2 Q And you did not deliver any documents to the second  
3 lien party one day following your declaration as backup for  
4 the information in your declaration, either your first or  
5 second declaration, correct?

6 A I believe we produced the documents. I don't --

7 Q Did you deliver any documents that were backup? Did  
8 you deliver Exhibit I -- or excuse me -- G to your current  
9 report one day after your --

10 THE COURT: Well, it's not a report.

11 Q -- current declaration. Did you deliver G or I to us  
12 one day after your declaration?

13 MR. GENENDER: Your Honor, I'm going to object.

14 THE COURT: Well, are you contending, Mr. Moloney,  
15 that somehow there's a breach of this agreement dealing with  
16 expert reports?

17 MR. MOLONEY: I think Your Honor has expressed the  
18 view that there's no difference between him being a fact  
19 witness and an expert. But I actually think --

20 THE COURT: No, no. I said he's not an expert.  
21 He's not testifying as an expert.

22 MR. MOLONEY: Correct. Okay, so then those  
23 documents, if they come in at all, are going to be only  
24 summary exhibits, which we had to be given reasonable data  
25 in advance under reasonable circumstances. And I believe,

1 as we continue this examination, I may have a basis to  
2 object to those documents to summary exhibits.

3 MR. GENENDER: May I respond briefly?

4 MR. MOLONEY: Well, I haven't made the motion yet,  
5 Your Honor. I'm just telling you why I'm asking these  
6 questions.

7 THE COURT: Okay.

8 MR. GENENDER: Your Honor, Mr. Griffith's second  
9 declaration was on June 27th. His deposition was actually  
10 on July 10th. Those are matters of fact.

11 THE COURT: Okay.

12 MR. GENENDER: His most recent declaration was  
13 last Thursday, the deadline agreed to for direct testimony.  
14 Everything -- which is when his second supplemental  
15 declaration was presented, all of that backup -- all of the  
16 backup associated with it was produced contemporaneously  
17 with it, including all the backup. I'm just representing  
18 that to the Court because that's --

19 THE COURT: Well, is the backup part of the agreed  
20 exhibits?

21 MR. GENENDER: The backup --

22 THE COURT: Except for the two ESL presentations?

23 MR. GENENDER: The backup -- certain of the backup  
24 is not on the exhibit list; they're exhibits to the second  
25 declaration, just because they're raw data.

1 THE COURT: Okay.

2 MR. GENENDER: Thank you.

3 MR. MOLONEY: I'll come back to those exhibits  
4 later, Your Honor. I'm going to go somewhere else.

5 Q In both your first and second declarations, you used  
6 the same starting book value for inventory, as my expert  
7 David Schulte did in his report, correct?

8 A I believe in the first. I don't believe that's correct  
9 in the second.

10 Q Well, let's take a look at the second declaration. Do  
11 you have it in front of you?

12 A I do.

13 Q And in your second declaration -- in your supplemental  
14 declaration, right, it's your second declaration, right? In  
15 your second, you have a chart, and that chart is on Page 6  
16 of your second supplemental declaration, correct?

17 A Yes.

18 Q And the \$2.76 billion number, which you say total gross  
19 collateral. What do you have as -- what component of that  
20 is inventory?

21 A I don't think that was the number on the page.

22 Q Okay. But I'm asking you, what component of it is  
23 inventory?

24 A Of the 2.746?

25 Q Yes.

1 A I believe it's the 2 billion 690.8.

2 Q And that's the same number that Mr. Schulte used,  
3 right?

4 A I would need a copy of his declaration.

5 Q Okay.

6 A But from whatever I'm looking at here, it's not.

7 Q You have it in front of you in your book. If you go to  
8 Exhibit No. 3 and you look at page -- it's a report that's  
9 an exhibit to that, and you look to the Page 7 of that  
10 report, you'll see in the chart at the top, it shows 2.691;  
11 that's the same number you used, right?

12 A That's right.

13 Q And that's the same number you applied your 85 percent  
14 number against, right?

15 A That's correct.

16 Q So if he used the same number as you used, what is the  
17 basis for your criticizing his choice of a number?

18 A Well, he's using full book value.

19 Q I understand.

20 A Not the fair market value.

21 Q I understand you disagree with the 85 percent versus  
22 100 percent discount. Putting that aside, for the starting  
23 number, he's using the same number as you. So why do you  
24 criticize him for that choice?

25 A I think I criticize him for the value, not the starting

1 point.

2 Q Okay. To the extent your clients -- you were here when  
3 Mr. Genender said there should be a \$300 million adjustment  
4 in Mr. Schulte's analysis based on his starting number. You  
5 don't agree with that, right?

6 MR. FOX: Misstates the evidence.

7 Q I thought he said -- I thought the -- but the amount of  
8 ineligible collateral under the borrowing base is \$300  
9 million, right, Mr. Griffith?

10 A It's approximately.

11 Q And the \$300 million deduct that was in -- you can take  
12 look at this slender volume again or I can hand it up --  
13 that the \$300 million deduct that they -- that was  
14 complained about from Mr. Schulte was because he didn't use  
15 the same number in the borrowing base, right?

16 A It's because he's using the full book value.

17 Q Okay. So in any event, you have no problem with him  
18 starting with his number and not starting with the borrowing  
19 base number; is that right?

20 MR. GENENDER: Objection, misstates the evidence.  
21 The number is from the borrowing base, his totals ledger  
22 number.

23 MR. MOLONEY: Let me rephrase, Your Honor.

24 Q You have no problem when Mr. Schulte started with  
25 2.691, rather than a lesser number for his starting

1 analysis, putting aside what he used by way of a discount,  
2 correct?

3 A That's correct.

4 Q Okay. Now -- so the only real quarrel with Mr.  
5 Schulte's valuation of the inventory is that he used his  
6 number, rather than 85 percent, correct?

7 A That's correct.

8 Q And the only reason why you used 85 percent was based  
9 primarily on your interpretation of the APA and,  
10 secondarily, on what you implied from the negotiations prior  
11 to that, correct?

12 A It's what I learned from the negotiations, as I took  
13 part in those and had the documentation from -- and  
14 ultimately, the numbers wound up in the APA.

15 Q So other than the APA and the negotiations, you have no  
16 view whatsoever as to what the correct value of the  
17 inventory was at the petition date, right?

18 A We're using 85 percent as the proxy based on that --  
19 what was realized in a sale between a willing buyer and  
20 willing seller.

21 MR. FOX: Your Honor --

22 Q But assuming that --

23 MR. FOX: I'm going to object to that, because if  
24 he's here as a fact witness, (indiscernible) judgments about  
25 what the value should be on the petition date, and a fact

1 witness isn't qualified to do that. If he has to testify as  
2 to what the property sold for in February, so be it if he  
3 has personal knowledge.

4 THE COURT: I thought that's what he did. He said  
5 this was a proxy for --

6 MR. FOX: But that's where he has to stop, because  
7 he doesn't get involved with.

8 THE COURT: But that's when you objected.

9 MR. FOX: Well, that's right.

10 THE COURT: I think the question was going to go  
11 in a different direction.

12 MR. MOLONEY: I would like to go in a different  
13 direction, Your Honor.

14 THE COURT: I don't think -- there's nothing you  
15 can object to at this point.

16 MR. FOX: I agree, Your Honor.

17 Q I just want to -- I want to just be clear that if the  
18 Court were to agree with us that you're not allowed to rely  
19 on your interpretation of the APA and you're not allowed to  
20 rely on what you think the negotiation show as a value, you  
21 have no other basis for your 85 percent number, correct?

22 A That is the basis for my 85 percent, so that would be  
23 yes.

24 MR. MOLONEY: Okay, Your Honor. At this point,  
25 Your Honor, I would renew my motion to exclude those two

1 exhibits and to preclude testimony on the subject. I'm  
2 prepared to walk Your Honor through the APA.

3 THE COURT: Is there anything based on your  
4 interpretation -- leave aside the negotiations that led up  
5 to it, just focusing on the actual language of the APA. Is  
6 there anything in that interpretation that the debtors'  
7 counsel can't tell me?

8 MR. GENENDER: I think they understand the  
9 agreement the same way as I do.

10 THE COURT: All right. So I'll sustain the --

11 MR. MOLONEY: Thank you, Your Honor.

12 THE COURT: -- the objection to the declaration.

13 MR. MOLONEY: Okay. And both of those exhibits,  
14 Your Honor. I would move to exclude them.

15 THE COURT: Well, that's a separate issue because  
16 I haven't decided yet whether it's plainly clear.

17 MR. GENENDER: Judge, the objection, just so I'm  
18 clear, was sustained as to any testimony about --

19 THE COURT: The meeting of the APA.

20 MR. GENENDER: Understood.

21 THE COURT: Right.

22 MR. GENENDER: Yes.

23 THE COURT: But I don't know yet. I mean, I  
24 haven't heard the parties as to whether it's ambiguous or  
25 not.

1 MR. MOLONEY: I know. And, Your Honor, I will  
2 cross-examine him on his understanding if I thought that  
3 those exhibits were coming in. But if they're excluded, I  
4 will not go into it. So that's why I thought that was a  
5 threshold issue, with all due respect, Your Honor. So I'm  
6 prepared to argue that motion now.

7 THE COURT: About the plain meeting of the ADA --

8 MR. MOLONEY: Yes, Your Honor.

9 THE COURT: -- APA, excuse me. Well, I think we  
10 should probably do that.

11 MR. MOLONEY: Okay. Thank you, Your Honor.

12 MR. GENENDER: Judge, can I address this? This is  
13 not parol evidence issue. This is a context of his  
14 understanding of the valuation, number one, and that's the  
15 context -- these are admissible documents; they're party  
16 admissions. Number two, they go to facts upon which he made  
17 computations. They can cross-examine him on that. They're  
18 their own representations, number one. And two, and I'm  
19 happy to let the ECC speak to this, Your Honor.

20 We had oral arguments as well, and they certainly  
21 go to equitable issues, certainly as to estoppel as to this  
22 -- as to Mr. Moloney's own client now taking contrary  
23 positions in this hearing than were taken in its  
24 presentations leading up to the APA. This is not a parol  
25 evidence to determine the meaning of the APA because we're

1 not trying to determine the meaning of it. Mr. Griffith has  
2 offered testimony, factual testimony, as to the value, fair  
3 market value of the assets in February of 2019. It's not a  
4 parol evidence issue; it's not an ambiguity.

5 THE COURT: Okay.

6 MR. MOLONEY: I think that's an argument, Your  
7 Honor. And I can respond to it after I make my argument, or  
8 I can make my argument.

9 THE COURT: Well, he did interrupt you, but you  
10 should make your argument.

11 MR. MOLONEY: Okay. Let me make my argument first  
12 if it means that it answers -- responds to his argument.  
13 Your Honor, can I get indulged to look at the PowerPoint I  
14 gave you this morning.

15 THE COURT: I have it.

16 MR. MOLONEY: Okay, thank you. And this is -- it  
17 has two key definitions up front. One is required assets,  
18 which has the meaning set forth in Section 2.1; and second  
19 is purchase price, which has the meaning set forth in  
20 Section 3.1. And then if you turn the page, you see the  
21 definition of purchase price in Section 3.1.

22 We highlighted, I think, the language you really  
23 need to focus on, which is that it's an aggregate purchase  
24 price for purchase and sale of everything and shall consist  
25 of the following, and that's collectively the purchase

1 price. There are then nine levels of consideration. And  
2 so, you have an aggregate purchase price; you don't have a  
3 broken out purchase price for one aggregate purchase price  
4 for all of the assets.

5 Now, we go to 2.1 to see what did we get for  
6 aggregate purchase price. In 2.1, we get the purchase and  
7 sale of the acquired assets, which are defined, if you go to  
8 2.1, as collectively the acquired assets. And we have 29  
9 categories of acquired assets; inventory is not even a  
10 separate category. The separate category is that includes  
11 in inventory of one of the 29 categories is all acquired  
12 inventory, all acquired receivables, all acquired equipment,  
13 and all acquired improvements.

14 So we did not spend 85 cents to buy the inventory.  
15 It couldn't be clearer. But let's look at the one section  
16 they would like you to rely on, which is Section 10.9. It's  
17 the only section they've ever referred to. And looking at  
18 that section, which we also have here at Page 11, and it  
19 says, basically, it's just -- it's not a purchase price,  
20 it's not an allocation of value. It says that there's a  
21 minimum amount of assets that have to be delivered. The  
22 assets include three categories of documents -- of assets:  
23 inventory, credit card receivables and pharmacy receivables,  
24 which include pharmacy script. Those are the categories of  
25 assets that have to be delivered in an aggregate amount.

1 And to the extent this is any relevance, and I  
2 think that it's very little relevance, this provision, to  
3 anything, but if it has any relevance, to the extent that  
4 they over delivered, they have more assets on hand. Let's  
5 say they have extra pharmacy script on hand. Do they deduct  
6 it at 85 percent level? No. They deduct it at book value.  
7 They deduct the receivables at book level. They deduct the  
8 inventory at book value. They deduct the pharmacy  
9 receivables at a price of \$10 per receivable. That's the  
10 way this provision works.

11 So, there's nothing in this provision that, from  
12 which you can imply a value of inventory, and then get to  
13 the entire agreement provision. This agreement says you  
14 can't recreate how the sausage was made, in plain Brooklyn  
15 language. Basically, it says that this is the entire  
16 agreement, it supersedes all prior communications. And  
17 that, on to of New York's pro-evidence rule, means that he  
18 testimony they want to give, or the exhibits they want to  
19 rely on, are not permissible for purposes of enforcing or  
20 interpreting this agreement. To make it clear, Your Honor -  
21 -

22 THE COURT: They're not enforcing or interpreting  
23 the agreement though, so I think they concede that point.  
24 It wasn't entirely clear in the briefing leading up to this.

25 MR. MOLONEY: But they are interpreting the

1 agreement. If they're not interpreting the agreement, how  
2 are they getting it 85 percent price?

3 THE COURT: This is not a matter of contract, in  
4 other words. They're not relying on the party's contract.  
5 They're relying on their party's discussions about value.

6 MR. MOLONEY: Your Honor, that's what I  
7 (indiscernible). The legal point was, I thought their point  
8 was -- but maybe I missed their point completely -- was that  
9 if you sold an asset for \$X, that was a fair value. That  
10 implies that was the sales price.

11 THE COURT: I agree with you that that was a point  
12 that you could certainly read their briefing to state. But  
13 I think what they're stating is something different than  
14 that, because I agree with you and I think they agree with  
15 you, that the agreement itself does not allocate a purchase  
16 price. But there's a separate point that I think you need  
17 to address, which is that it -- I believe it's relevant  
18 evidence if in discussions, the parties put a value -- not  
19 for purposes of the agreement, not for purposes of enforcing  
20 the agreement in a particular way -- but just put a value on  
21 these assets, this collateral.

22 Now, for example, the Debtor has, as the three --  
23 at least two of the experts -- relied on, provided, in  
24 various contexts in this case, either directly through Mr.  
25 Meghji, or through its agents, valuation analyses --

1 evidence of -- fact evidence of value. I think what Mr.  
2 Griffith wants to get to, and the Debtors want to get to, is  
3 similar evidence. Not evidence interpreting the APA, so  
4 that the APA could be enforced against your client, but just  
5 evidence that at some point during this process, maybe  
6 fairly early in the process, when people were thinking about  
7 the value of the collateral -- I mean, this is -- I haven't  
8 heard it yet, so don't know -- you know, here may be all  
9 sorts of ways to cross-examine him on that. Will -- the  
10 collateral or just pieces of the collateral, for example,  
11 that ESL, like the Debtors, discussed the value of the  
12 inventory.

13 MR. MOLONEY: Let me continue going through this,  
14 just for a moment, Your Honor, and I'll come back to it.  
15 The bid letter, which we gave, our formal bid letter, which  
16 is attached here, also allocates all of the consideration,  
17 all the value. That as the December 28 bid letter. The  
18 January 9 bid letter --

19 THE COURT: That's great for cross-examination.  
20 You can ask him that.

21 MR. MOLONEY: And the global bidding procedures  
22 order provided for (indiscernible) allocations, and you had  
23 a hearing where they waived and there (indiscernible).

24 THE COURT: This is not to enforce or interpret  
25 the APA.

1 MR. MOLONEY: Then I don't understand -- this is a  
2 road to nowhere, Your Honor, because --

3 THE COURT: Not necessarily. If Mr. Griffith is  
4 going to testify that ESL's representative said in a  
5 meeting, "I totally agree this is the way we need to value  
6 the inventory," it's relevant and admissible, I think.

7 MR. MOLONEY: It would be hearsay. It could be an  
8 admission but --

9 THE COURT: But it would be an exception, yeah.

10 MR. MOLONEY: But that's not anything he'd put in  
11 any declaration so far.

12 THE COURT: The exhibit, actually --

13 MR. MOLONEY: The true exhibits do not purport to  
14 be our opinion as to the value of the inventory.

15 THE COURT: Well, I don't know. I don't know. I  
16 think you can cross-examine him on that. I don't think it's  
17 -- put it differently: I don't think he would exclude it  
18 without him trying to say what it is.

19 MR. MOLONEY: If the only relevant fact is, for  
20 their argument, is that for fair value accounting, you look  
21 at what an asset was sold at, if that's the reason why we're  
22 getting the evidence --

23 THE COURT: But that's not the reason.

24 MR. MOLONEY: If they're saying that this --

25 THE COURT: I'm excluding it on that basis because

1 the purchase price doesn't say that. The purchase agreement  
2 doesn't that.

3 MR. MOLONEY: Okay. If it's excluded for that  
4 purpose, Your Honor, then I have no problem trying to  
5 understand -- though I must say I don't understand what  
6 purpose it could have as an analytical matter. But I'll  
7 continue my examination.

8 MR. SCHROCK: Can I just respond, Your Honor,  
9 please, for the record.

10 THE COURT: Okay.

11 MR. SCHROCK: So, again, Ray Schrock for the  
12 Debtors. We looked at this and we said that Mr. Griffith,  
13 when he's looking at what facts, you know, determine value,  
14 there's the APA, there's the presentations that ESL gave,  
15 there's discussions in which Mr. Griffith participated. I  
16 think that all those things are relevant facts for purposes  
17 of determining how the Debtors assessed the value of the  
18 second lien collateral, and also what was actually paid for.  
19 And I would also note that as to the actual APA, we concede,  
20 the Court, it does not have an allocation. As we've said on  
21 the record there's nothing there.

22 As to whether or not, given there is no  
23 allocation, this would be relevant evidence. We've had an  
24 APA enforcement hearing where other parties have said,  
25 listen, and in fact, ESL said we need other evidence to

1 actually interpret what people meant by these purchases.

2 And we're not here to concede the point that, you know, you  
3 shouldn't hear some of that evidence, actually, for what the  
4 actual purchase price was paid under the terms of the  
5 documents.

6 MR. MOLONEY: That was not an argument  
7 (indiscernible), Your Honor.

8 THE COURT: The APA doesn't allocate this purchase  
9 price. This is not a -- it would not be proper for me to  
10 take parole evidence to interpret the APA. I don't think  
11 the APA is ambiguous on this issue as to how the APA treats  
12 the purchase price. But as far as how the parties to the  
13 APA may have valued the inventory, that's another story.

14 MR. SCHROCK: Fair enough, Judge, just wanted to  
15 be ...

16 THE COURT: Okay.

17 MR. MOLONEY: Your Honor, may I resume the  
18 examination?

19 THE COURT: Sure.

20 Q Okay, paragraph six of your declaration, do you have  
21 that in front of you, Mr. Griffith?

22 A Which one?

23 Q Your trial testimony declaration.

24 A That's the supplemental?

25 Q Yes, the supplemental.

1 A Okay.

2 Q This is where you build up your analysis based on the  
3 APA, that there was a 85 percent value associated with the  
4 inventory, correct?

5 A That's right.

6 Q And basically, if I understand your argument, your  
7 argument is that if you look at the, all the prior debt,  
8 secured debt, that came ahead of the second lien position,  
9 and you figure out how much money we paid off to satisfy  
10 that debt, and you add \$433 million you get 85 cents, and  
11 that's why you believe, that the APA supports your position.  
12 Right?

13 A Not exactly. I mean, we also had the other senior LC  
14 facility that was ahead of the second liens, that's not in  
15 this part of the APA definition.

16 Q Okay, that's what I was going to ask you, because if  
17 you actually add the other senior LC facility, right, if you  
18 add the \$271 million and the \$135 million to your paragraph  
19 six numbers, then we paid well over 100 percent of the  
20 inventory value, right?

21 A The 271 stand-alone LC facility is accounted for in a  
22 separate part of the APA so would not be considered as this  
23 part of the definition.

24 Q I know you didn't put it in as part of your  
25 declaration, but your logic is that it basically, if you

1 look at us paying off the prior, the debt that had prior  
2 call on the assets, and you add on 433 you get 85 percent,  
3 right, that was your logic?

4 A Well the ABL facility, which had the 124 million or  
5 approximately thereof, of LCs under it, which is in the 850,  
6 plus the (indiscernible) facility, plus the second lien  
7 credit bid, yes, that gets us to the billion 408 which is  
8 also in those ESL documents.

9 Q And if you add in the 271 number you get over 100  
10 percent, right?

11 A It's not part of the same collateral. It was cash  
12 collateralized and not part of the borrowing base on ABL  
13 first lien facility.

14 Q So, you're saying the 271 is not debt that comes ahead  
15 of us?

16 A It does. It's just accounted for in a separate part of  
17 the APA.

18 Q What do you mean, accounted for in a separate part of  
19 the APA?

20 A If I had the APA I could look at the sections, but they  
21 have a separate section related to that facility, as part of  
22 the sources and uses.

23 Q Are you saying the \$271 million, it has a prior claim  
24 on the same inventory collateral, to our second lien debt,  
25 or not?

1 A I'm saying it's senior to the second lien.

2 Q So, if you counted it, along with the other senior  
3 debt, which you put in that paragraph six, you get to a  
4 number of 100 percent for the inventory, correct?

5 MR. GENENDER: Objection, asked and answered, Your  
6 Honor. He's already explained that it relates to a  
7 different set of assets.

8 THE COURT: No, but I ... you're counting it  
9 dollar for dollar, separately?

10 MR. GRIFFITH: It is, yes.

11 THE COURT: As opposed to 85 percent.

12 MR. GRIFFITH: The 271 million LC facility was  
13 assumed 100 percent as part of this transaction, yes.

14 Q What asset does it relate to in your mind?

15 A I don't know which asset it's actually secured against.  
16 I believe it's the same collateral but it's cash  
17 collateralized by ESL and Cyrus.

18 THE COURT: Well, was the original facility cash  
19 collateralized, 271?

20 MR. GRIFFITH: It was, Your Honor, yes.

21 Q And that's why you assumed it would not be drawn,  
22 right?

23 A It's still a material obligation that's real. It would  
24 not be drawn, necessarily, but it would be an obligation, a  
25 first lien obligation.

1 Q Now, you agree that both the ABL LC and the \$271  
2 million Citibank LC we talked about -- they're standby LC's  
3 right?

4 A That's correct.

5 Q And in a going concern context, those type of LCs are  
6 not drawn if the company meets their obligation in a going  
7 concern context, right?

8 A If they continue to make the payments that are due,  
9 that would be correct.

10 Q And you didn't opine in either of your two declarations  
11 that in a going concern context these contingent obligations  
12 would actualize because you assumed that they would be  
13 assumed in any going concern sale by the buyer, right?

14 A We assume that they are assumed as part of the  
15 transaction, which they were, under the ESL transaction.

16 Q And I'd like you to look at paragraph -- at the Reicker  
17 declaration, which is in your book as exhibit number four.  
18 And I'd like you to look at paragraph eight. I'll represent  
19 to you, this is a declaration in support of the priming  
20 liens, the adequate protection we received that the junior  
21 and senior DIPs -- in that context, Mr. Reicker says that  
22 there's basically 1.3 billion borrowed against it under the  
23 ABL facility, meaning all of the Debtors, right? And that's  
24 in paragraph eight.

25 A That's what it says, yes.

1 Q And that \$1.3 million, which he represented to the  
2 Court as a condition to basically priming our lien, does not  
3 include either of the LCs -- doesn't include either the ABL  
4 LCs or the LCs that are cash collateralized at Citibank,  
5 right?

6 A I believe that's correct, yes.

7 Q Now, were you involved in the preparation of the wind-  
8 down analysis that is Joint Exhibit 14 and is in your book  
9 at five?

10 A I was not.

11 Q This was an M-III production, right?

12 A Yes. I'm sure we had a part in preparing this, yes.

13 Q And if you look at the second page, the bullet point  
14 under substantial funding through wind down is provided by,  
15 it says, "The imposition of a four percent charge on  
16 incumbent assets sold throughout the case, pursuant to  
17 506(c) of the Bankruptcy Code, with the exception of first  
18 lien and prepetition ABL collateral (including non-insider  
19 portions of the FILO and Citi LC), and junior DIP collateral  
20 due to the 506 waivers granted to these lenders solely in  
21 their capacity as DIP lenders." See that?

22 A I do.

23 Q And if that four percent number was used as the  
24 appropriate 506 surcharge in this case, you would get a  
25 number of about \$66 million, right, ballpark?

1 A I'm not sure I get that from just looking at this page.

2 Q I'm just saying the inventory had a ballpark value of  
3 \$1.7 million, times four percent, I'm getting at \$66  
4 million, I did the math. But that's about right, right?

5 A Sounds right, yes.

6 Q And why isn't that the right 506(c) charge, assuming  
7 any is appropriate in this case?

8 A It's a different scenario. We had an actual sale of  
9 the company with a fair market value that we discussed that  
10 had took us a certain amount of expenditures to get us to  
11 that point to allow for the credit bids and the deal to  
12 close. It's just a different analysis. I can't really  
13 compare that, apples to apples, to this.

14 Q You're not claiming that if you pivoted at this point  
15 in time -- which this was prepared January 12 -- that you  
16 have had (indiscernible) decrease in overall expenses, are  
17 you?

18 A I'm not sure I understand the question.

19 Q I'm saying if on January 12 you adopted the wind-down  
20 proposal, or wind-down option, rather than the sale option,  
21 you're not claiming that would have resulted in more  
22 expenses than you incurred up to that point in time.

23 A I guess I'm still not following. What ...?

24 Q Wouldn't you have incurred a lot more of expenses if  
25 you did this wind-down proposal, than you actually incurred

1 by doing the proposal with my client, ESL, and Transform?

2 A I mean, it's possible. I mean, if you're starting to  
3 pivot in January, and we've been operating in bankruptcy for  
4 several months, it's still going to take you minimum three  
5 to four months for a wind-down. So, it's possible you would  
6 have more expenses.

7 Q And he also assumes that you're going to, that there's  
8 going to be a 90 percent recovery of the inventory of the  
9 liquidation, right, at that point in time.

10 MR. GENENDER: Your Honor, I'm going to object to  
11 this. There's a lack of foundation. By his own testimony,  
12 Mr. Griffith didn't prepare this document. It doesn't have  
13 any foundation upon which to testify to the accuracy of the  
14 information, and they haven't established it.

15 MR. MOLONEY: This was prepared by M-III. We  
16 could call Mr. Meghji, the CRO, whose affidavit this was  
17 attached to, and they made it a joint exhibit.

18 THE COURT: I think he can answer questions on this. I  
19 mean, if there's something that you don't understand in it  
20 you should say so. But otherwise, if you understand it and  
21 can knowledgably talk about it, then you can answer the  
22 question.

23 MR. GENENDER: Okay.

24 MR. MOLONEY: Your Honor, I'm going to leave this  
25 exhibit, make it easier.

1 Q Now, I'd like you to look at Exhibit I to your report.

2 THE COURT: What tab does that ...?

3 MR. MOLONEY: That's, it's to supplemental report  
4 and it may not ... is it in there? I have a ...

5 THE COURT: Is it number six? That's also labeled  
6 five.

7 MR. GENENDER: Your Honor, in the declaration book  
8 it's the third declaration, page ... it's toward the back,  
9 unfortunately it's not one (indiscernible) page number.

10 MR. MOLONEY: Okay, it's in the book at Exhibit  
11 Six.

12 THE COURT: Yeah, six.

13 MR. MOLONEY: In Exhibit Six.

14 THE COURT: The thin book. It's the chart that  
15 adds up to \$1.451 billion.

16 MR. MOLONEY: Yes, exactly, Your Honor. That's  
17 the chart that adds up to that number.

18 Q And this was a chart that was given to us on Thursday  
19 evening of last week. Is that correct?

20 A That's correct.

21 Q And a more legible version, it says the searchable,  
22 legible (indiscernible).

23 A I'm sorry?

24 Q Maybe you weren't involved in the details. Forget  
25 that. And is it fair to say that you included on this

1 exhibit all of the money, all the money the Debtors spent in  
2 these cases, except for approximately \$100 million of legal  
3 fees, \$31 million of license fees to vendors, \$10 million  
4 for utility deposits and \$295 million of what Exhibit I  
5 calls, quote, "GOB stores on non-sale related expenses." Is  
6 that correct?

7 A That's correct.

8 Q And looking at that last item, GOB sales on non-related  
9 expenses, which I think is the last part of this Exhibit I,  
10 should that be 'or'? Should that be "GOB store or non-sale  
11 related"?

12 A It's the GOB-related expenses of the stores that were  
13 closed during the process, the oppose process.

14 Q It's only the GOB stores.

15 A That's right.

16 Q There's no other expenses there, other than the stores  
17 that are related to the GOB sales or are there other  
18 expenses included there as well?

19 A I believe it's just the GOB. It is.

20 Q And how do you know that?

21 A It's the analysis that my team has pulled together on  
22 the GOB expenses as we ran the GOB reporting over the course  
23 of the case.

24 Q Okay. Now, if you look at the Schulte report, amended  
25 report, which is Exhibit Three, and you look at Exhibit --

1 after that report, which is page 42 -- page 42, Exhibit F,  
2 to the Schulte report.

3 A Okay.

4 Q And you see that there's a gross margin of \$414.5  
5 million that was actually earned by the stores post chapter  
6 11 filing, correct?

7 A Yes.

8 Q And you see that \$414.5 million was used to pay \$403  
9 million of actual operating expenses. Do you see that?

10 A I see that.

11 Q To the extent expenses were paid from that source, they  
12 were not deducted from your chart, right?

13 A I'm sorry, can you say that part again?

14 Q To the extent expenses were paid from the \$403 million  
15 margin, from the sale of our collateral, your chart wants to  
16 double charge us for those same expenses, correct?

17 A I don't think that's how it works.

18 Q In what way did I get it wrong?

19 A The 506(c) surcharge that we're showing here does show  
20 store-level expenses as well as the corporate overhead, but  
21 we don't account for that anywhere else. So, it is the true  
22 and actual operating expenses that were incurred post-  
23 petition to get us to a sale.

24 Q I'm sorry, did you deduct from -- we talked, we saw  
25 what the deduct for your total, I didn't see any deduct for

1 earnings at the store level. Are you saying that you  
2 deducted from your total, the \$414.5 million?

3 A No, I did not.

4 Q Okay. If you did not deduct from your total -- these  
5 expenses, went to pay store-level employees, right?

6 A It's one of the components, yes.

7 Q And it went to pay rent, right?

8 A Yes.

9 Q It went to pay utility and telephones, right?

10 A It did.

11 Q It went to pay advertising, right?

12 A A portion of it.

13 Q It went to pay security services, right?

14 A Yes.

15 Q And so, you're double counting to the extent you're  
16 charging us for that money, right?

17 A Where else am I charging it for that?

18 Q In your Exhibit I.

19 A I'm saying that the 403 is a component of the billion  
20 451. This is not my schedule, this Appendix F. It's Mr.  
21 Schulte's.

22 Q So the 403 is a component of the 451. That's all I  
23 need, I think, on that. Let me go onto Exhibit B which is,  
24 ironically, on page ... four pages in -- you have that?

25 THE COURT: I'm sorry, Exhibit B to what?

1 MR. MOLONEY: It's the same thing. It's called  
2 Exhibit B. It follows Appendix D.

3 THE COURT: As to Mr. Schulte's --

4 MR. MOLONEY: In the same document we're looking  
5 at, you just go forward a few pages, and it's 65 and 71 on  
6 the top, in terms of numbering. And it's showing GOB  
7 results.

8 Q If you look that \$144 million number, which is the end  
9 of total GOB expenses, that was additional money generated  
10 by the margin on the GOB stores, right, that was available  
11 to pay expenses and, in fact, did pay the same store level  
12 expenses we just discussed, right, for the GOB stores.

13 A I'm confused. It says, "Total GOB expenses."

14 THE COURT: Are you asking whether this 144  
15 million is part of the 403, or on top of it?

16 MR. MOLONEY: No, this is on top of it.

17 THE COURT: On top of the 403.

18 Q First I just want to establish the 144 is, in  
19 qualitatively, the same; this represents the money that was  
20 spent at a store level to pay payroll, to pay security, to  
21 pay advertising in connection with the going-out-of-business  
22 sales, right?

23 A That's what it appears to show here. I can't verify  
24 the document though. But yes, it would appear to be the GOB  
25 expenses...

1 Q And that number would be on top of the \$403 million,  
2 right?

3 A It's part of what we excluded from our billion 451. We  
4 excluded GOB store-level expenses.

5 Q I know, but I couldn't -- that's why I asked the  
6 question I asked earlier about Exhibit I, because your  
7 number for Exhibit I for excluded GOB on-store sale expenses  
8 is higher than this \$144 billion number. Right?

9 A You're saying what I have excluded was higher than  
10 this?

11 Q Yes. I'm looking at your Exhibit I and I'm looking at  
12 the exclusions that you have under, at the -- for on-store -  
13 - and you have a number of 295.3, and I'm trying to  
14 understand how I can reconcile that with the 144.

15 A We excluded more expense. I don't know the source of  
16 this Exhibit B in the Schulte. I don't know if he's not  
17 taking any allocations. But to the extent we were taking  
18 GOB-related expenses plus any overhead allocation, plus any  
19 Abacus Advisor fees. It's quite possible we have a much  
20 higher number that's being excluded.

21 Q But you don't know what you excluded on top of \$144  
22 million, right?

23 A I don't know the --

24 MR. GENENDER: Objection, misstate the testimony.

25 That's --

1 THE COURT: I think he didn't -- I think what he  
2 testified is he didn't know what was in the 144.

3 Q Okay. You don't know what's in the 144? And you don't  
4 really know what's in the 295.3 either, do you?

5 A We show the detail here.

6 Q I know you show this level of detail, but what else you  
7 might have excluded you don't know.

8 A This breaks down what we exclude. I just can't speak  
9 to the 144.

10 Q Okay. Now, would you look back at Schulte report, at  
11 the appendix, which is ... page 25, the appendix? Did you  
12 include all of the employee payroll expense for Sears Auto  
13 Center in your expenses?

14 A I'm sorry, what page are you on?

15 Q I'm on page 25, on the list of various businesses. I'm  
16 asking, did you include -- it's page 44 of 71, at the top,  
17 page 25 at the bottom, Appendix A of the Schulte report.  
18 Did you exclude all of the payroll expenses of the Sears  
19 Auto Center, or include it?

20 A No, I think the Sears Auto Center are included.

21 Q And how about the e-commerce -- are they included or  
22 excluded?

23 A They'd be included.

24 Q And the ShopYourWay, is that included or included?

25 A It would be included.

1 Q How about service contract -- how about Service Home  
2 Services -- Sears Home Services? Did you include all of  
3 their employees?

4 A Yes.

5 Q How about Service Contract segment, did you include all  
6 of their employees?

7 A We did.

8 Q And In-home Repair segment, did you include all of  
9 their employees?

10 A We did.

11 Q And Parts Direct segment, do you include all of their  
12 employees?

13 A Yes.

14 Q And franchise segment, did you include all of their  
15 employees?

16 A I don't know if they have employees if they're a  
17 franchise, but the expenses would likely be included, yes.

18 Q And Home Improvement?

19 A Yes.

20 Q Did you include -- and Financial Services, did you  
21 include all of their employees?

22 A Yes.

23 Q And Innovel, did you include all of their employees?

24 A Yes.

25 Q And Monarch, did you include all of their employees?

1 A We did.

2 Q And Kenmore, did you include all of their employees?

3 A Yes.

4 Q And Die Hard?

5 A Yes.

6 Q And if I went through every category, would you give  
7 the same answers, that you included, for every category, all  
8 the expenses for all these businesses, to be surcharged  
9 against our collateral?

10 A I would, because in most of these scenarios we're using  
11 the collateral that's on the borrowing base. The inventory  
12 and accounts receivable that are generated are done so  
13 through using, for Home Services, we have the service  
14 inventory on the books. The same would be true with any of  
15 the parts kind of direct businesses. And Innoval, Monarch,  
16 sell the inventory that we have on hand as well. It's all  
17 part of the retail network.

18 Q And if the Judge were to disagree with you and say,  
19 okay, some of these expenses I don't think make sense,  
20 there's no way you could figure it out from your Exhibit I,  
21 what the detail is in terms of how much of the expenses  
22 relate to any of these businesses, right?

23 A We have it in the supporting detail, but this is the  
24 summary level of the detail, what we think is appropriate to  
25 include. But that is up to the Court to decide what they

1 want to include.

2 Q With all due respect, it was up to you to include what  
3 you thought was necessary to get your document into  
4 evidence, but that's an issue --

5 THE COURT: Well, let me ask it a different way.  
6 Is the detail in evidence? Is it in any of the exhibits?

7 MR. GENENDER: We turned over the support files,  
8 the affidavit.

9 THE COURT: But it's not in the exhibits?

10 MR. GENENDER: Attached to the declaration, with  
11 respect to the backup, Your Honor, obviously, we intend to  
12 move the declaration into evidence, so the answer is yes.

13 Q What detail is it, besides Exhibit I, that supports  
14 this analysis?

15 A We provided the raw data files that include all of the  
16 underling expenses for the periods covered.

17 Q For what periods?

18 A From petition date through close, as well as the --  
19 also as subsets of the other periods we discussed, in terms  
20 of from the first --

21 Q But when and how were they produced to anyone?

22 THE COURT: I'm sorry, we're moving away. I was  
23 just asking what's in the record as opposed to what was  
24 provided in discovery.

25 Q. I think in the record, all there is, is Exhibit I,

1 right?

2 A I think that's correct.

3 Q You included \$34 million in assumed post-petition  
4 interest to first lien DIP lenders in your declaration as  
5 part of the first lien debt, is that correct?

6 A Yes.

7 Q And you also included, in your build up to the \$14.51  
8 million, \$91 million ... or actually \$94 million of actually  
9 DIP interest in financing fees. Is that correct?

10 A That's correct.

11 Q Isn't that double counting?

12 A They're used for separate purposes. In our calculation  
13 of a 507(b), there is no diminution in value so we don't  
14 apply any 506(c) surcharge to the extent. Another valuation  
15 method was used to determine the 507(b). We'd be using the  
16 506(c) surcharge we've attached her. If, to the extent  
17 there was some amount that was already included per our  
18 analysis, we would reduce the 94 million in Exhibit I by the  
19 similar amount, but they're not being calculated in any  
20 fashion here.

21 Q The \$94 million includes all the interest you actually  
22 paid to any of the first lien lenders or DIP lenders joining  
23 the chapter 11 case, right?

24 A Interest and fees, yes.

25 Q And the \$34 million number is just a projected number,

1 not a number you actually paid.

2 A It was the hypothetical minimum, yes.

3 Q A hypothetical number, okay. And you want to charge  
4 this for both the hypothetical number and the real number,  
5 right?

6 A No, that's not what I said.

7 Q Well, your calculation starts with a deduct based on  
8 the hypothetical number being ahead of us, and then you want  
9 to subtract from us the real debt, real amount you spent.  
10 Why is that not double counting?

11 A Because we never get to a 506(c) surcharge in our  
12 analysis. We show no diminution in value, so we never  
13 actually have to apply this. To the extent there was  
14 another way it was being employed, do you actually calculate  
15 the 507(b); this is the 506(c) in Exhibit I that we would  
16 put forward.

17 Q If you look at the Reicker declaration again, which is  
18 Exhibit Four, (indiscernible) the sentence I asked you about  
19 before, where we talked about the LCs, the next sentence is,  
20 "Accordingly, absent some unforeseen circumstances, the  
21 Debtor should be able to satisfy the DIP ABL facility from  
22 the proceeds of the original pre-petition ABL collateral  
23 without resorting to the proceeds of previously unencumbered  
24 collateral, as long as the Debtors have the time and  
25 liquidity to run an orderly and valued maximizing process."

1 Did I read that properly?

2 A Yes.

3 Q And that was the plan, right?

4 A The plan was always to maximize value. The sentence  
5 seems reasonable.

6 Q So, there was always ... when we obtained the adequate  
7 protection, it was understood that the \$94 million was going  
8 to be spent out, which is why we got the adequate  
9 protection. And now you're saying, now that it was actually  
10 spent we don't have it anymore. Is that what you're saying?

11 A I'm not sure I follow the question.

12 Q Well, when we got the adequate protection liens, the  
13 replacement liens, everyone anticipated that our collateral  
14 was going to be used to pay out the first lien debt. That's  
15 what this says, right?

16 A That's what it says here, I don't --

17 Q And, therefore, we were given adequate protection liens  
18 and 507(b) claims to compensate us for that use, correct?

19 MR. GENENDER: Objection. He's asking for legal  
20 conclusions.

21 THE COURT: I think you are.

22 MR. MOLONEY: I think I can make this argument to  
23 Your Honor. I have a few more questions.

24 THE COURT: Can I just ask -- it's related to what  
25 you've just been going through. You said the \$34 million in

1 your 507(b) calculation was a hypothetical number. Why did  
2 you choose that number instead of the actual interest  
3 number?

4 MR. GRIFFITH: We were just assuming bare minimum,  
5 three-month period with, actually, with no DIP being put in  
6 place, with some type of an orderly liquidation. So, it's  
7 really just the interest on a first lien debt that would  
8 approve that period. It was just to be on a conservative  
9 basis.

10 Q All of the decisions were made, whether to do one thing  
11 or the other in this case, whether for value maximization,  
12 whether to do liquidation, or to do a going concern sale,  
13 were made by parties other than the second lien parties,  
14 right?

15 A I mean, the decisions were made by the Restructuring  
16 Committee and the company with buy-in from various  
17 creditors, including, I believe, the second liens.

18 Q Well, all of the buy-in from the second lien creditors  
19 was premised on their -- the original deal you had where  
20 they had where they had adequate protection liens and 507(d)  
21 claims, right? Did they ever say, "We're happy to do this  
22 transaction, we're happy to have you go forward in this  
23 case, but we don't want these protections," -- did they ever  
24 tell you that?

25 A I can't answer that question. I don't know.

1 MR. MOLONEY: I have no more questions, Your Honor

2 MR. LIUBICIC: Your Honor, if we may approach, we  
3 have a cross-exam binder for the Court.

4 THE COURT: Before you do that, I had one question  
5 and I probably will forget it if I don't ask it now. If you  
6 turn to Exhibit B of Mr. Schulte's report, at the top it  
7 says Page 65 of 71 ... GOB results.

8 MR. GRIFFITH: Yes, I see it, Your Honor.

9 THE COURT: If you look at the far right, Net  
10 Recovery Percentage column.

11 MR. GRIFFITH: Yes.

12 THE COURT: The aggregate number is 95.6 percent.  
13 You see that?

14 MR. GRIFFITH: I do.

15 THE COURT: Are you aware that Mr. Heinrich had a different  
16 number for the aggregate recovery? A different percentage  
17 number, I think it was 96.4 percent.

18 MR. GRIFFITH: Yes, I think we did realize that, that he has  
19 a slightly different calculation.

20 THE COURT: Do you know who's right? I mean, I appreciate  
21 it's a difference of 1.4 percent that -- do you have a view  
22 as to who is correct based on your knowledge of your  
23 company's books and records?

24 MR. GRIFFITH: I don't. I haven't done any calculation, but  
25 my understanding if I recall is that I believe the Schulte

1 one is correct. It's really just a matter of what you're  
2 using in your numerator versus in your denominator. I  
3 believe that Heinrich is subtracting certain expenses from  
4 the numerator as opposed to the denominator and it's  
5 changing the fraction slightly.

6 But overall I think the Schulte methodology is more  
7 accurate. But it maybe should also be mentioned that I  
8 don't believe this takes into account any type of corporate  
9 allocation.

10 THE COURT: I understand that point, that this was, in  
11 essence, the store allocation GLB1.

12 MR. GRIFFITH: Correct.

13 THE COURT: Just the 95.6, do the Debtors have a number like  
14 this anywhere?

15 MR. GRIFFITH: We did not rely on an OOB or any type of  
16 liquidation methodology in our analysis.

17 THE COURT: So this is a calculation that's made by both Mr.  
18 Schulte and Mr. Heinrich, not taken off of the Debtors --

19 MR. GRIFFITH: The basis for this may be from ours. I don't  
20 think I know the source of this.

21 THE COURT: Okay. Thank you

22 MR. LUBICIC: Your Honor, the source on it is the Debtors'  
23 four month actuals since we gave them, and this is a summary  
24 exhibit based on documents they have, the corrected summary  
25 exhibit.

1 THE COURT: Okay. All right.

2 MR. LUBICIC: Your Honor, may we approach?

3 Q Good afternoon, Mr. Griffith.

4 A Good afternoon.

5 Q Mr. Griffith, we've handed you a binder with some of  
6 the joint exhibits that are behind tabs and in the left  
7 pocket there's a copy of your deposition in case we need to  
8 look at that, okay?

9 And Mr. Griffith, do you have the binder of your  
10 declarations that Mr. Genender handed you when you took the  
11 stand?

12 A I do.

13 Q Okay. Mr. Griffith, you'd agree with me that  
14 collateral values expressed as a percentage of book value  
15 can vary over time?

16 A Yes.

17 Q And you can't point us to any authority suggesting it's  
18 appropriate to value collateral as of the petition date  
19 based on what someone might have paid for that collateral  
20 about four months later, correct?

21 A Most reasonably. That methodology I can think of based  
22 on that's -- what was achieved in a transaction between a  
23 willing buyer and a willing seller. I don't know of a  
24 better way to do it.

25 Q That wasn't my question. My question was, can you

1 point us to any authority supporting that notion?

2 A I cannot.

3 Q Let me ask you a few questions about the letters of  
4 credit. Your view was that in a liquidation, letters of  
5 credit may be fully drawn, correct?

6 A Yes, that's possible.

7 Q Okay. And one of the bases of your view is that in a  
8 liquidation -- withdrawn. One of the bases of your view  
9 that in a liquidation, letters of credit may be fully drawn.  
10 Is your understanding of litigation over letters of credit  
11 in the Circuit City bankruptcy, correct?

12 A It was just the data point that was used.

13 Q That was one of the bases that you told me about in  
14 your deposition, right?

15 A It was something I mentioned, yes.

16 Q Okay. You're not personally involved in the Circuit  
17 City case, correct?

18 A I am not.

19 Q Okay. And the other basis of your view is from  
20 discussions you've had with your colleagues at M3, right?

21 A That's correct.

22 Q And you're not aware of any instance in an orderly  
23 Chapter 11 liquidation of a retailer, where letters of  
24 credit were fully drawn, correct?

25 A I do not know that, no.

1 Q And you'd agree that in the three years prior to the  
2 petition date, hundreds of Sears stores were liquidated?

3 A Yes.

4 Q And as of the filing date, Sears had approximately at  
5 687 stores?

6 A Approximately sounds correct.

7 Q And you'd agree that during the course of this case,  
8 there have been approximately 262 GOB sales at Sears stores?

9 A Yes.

10 Q And you'd also agree that it was public knowledge at  
11 certain points in this Chapter 11 case that the Debtors were  
12 taking the position that they might have to pivot to a  
13 liquidation, right?

14 A Yes.

15 Q And from the petition date to the date of the closing  
16 of the sale to ESL, only \$9.1 million was drawn under the  
17 letters of credit, correct?

18 A That's correct.

19 Q And if the letter of credit is drawn to cover a  
20 contingent liability, but the liability doesn't ultimately  
21 occur, you'd expect that at the end of the period where --  
22 during which the liability was contingent, the proceeds of  
23 the letters of credit would be returned, correct?

24 A Yes.

25 Q Okay. Let's talk for a few minutes about Ms. Murray's

1 analysis, okay?

2 A Okay.

3 Q With regard to Ms. Murray's minimum case made out in  
4 her report, you don't believe she used an incorrect  
5 methodology, correct?

6 A Can you repeat the question?

7 Q Yeah. With regard to Ms. Murray's minimum case laid  
8 out in her report, you don't believe she used an incorrect  
9 methodology, correct?

10 A No, I wouldn't say that.

11 Q Okay. Could you turn to your deposition, which should  
12 be in the left pocket of the exhibit binder you did? And  
13 could you turn to Page 171, please? Are you there?

14 A I am.

15 Q Okay. So do you see on Line 23 of Page 171 I asked you  
16 the question, "And what about in Ms. Murray's minimum case,  
17 do you believe she used an incorrect methodology? Do you  
18 see that?"

19 A That's in response to the inventory --

20 Q Sir, do you see my question?

21 A It's --

22 Q Do you see the question that I asked you? I'm looking  
23 at Page 171, Line 23.

24 A You're asking if there's a problem with her  
25 methodology, but the question is --

1 Q All I'm asking you, Mr. Griffith, is if you see the  
2 question that I asked you in your deposition.

3 A I see a few questions, yes.

4 Q Okay. And could you read your answer on Page 172, Line  
5 2? Could you read that answer, please?

6 A Starting on which line?

7 Q Two.

8 A Line 2?

9 Q Yes sir, the answer to the question that I asked you.  
10 Can you read that, please?

11 A Line 2 on Page 171 --

12 THE COURT: No, no, on Page 172.

13 Q 172.

14 A Oh 172. "I don't believe so."

15 Q Now you understand that Ms. Murray's analysis relies on  
16 part on NOLV's set out in appraisals that were performed by  
17 Tiger, right?

18 A I do.

19 Q And Tiger is knowledgeable about the values of Sears'  
20 inventory, correct?

21 A It is.

22 Q And in fact, Debtors have relied on Tiger data during  
23 this Chapter 11 case, haven't they?

24 A They have.

25 Q For example, Debtors have relied on Tiger data in

1 connection with the borrowing base advance rates, right?

2 A Yes.

3 Q And you'd agree that Tiger's inventory analyses rely in  
4 large part on information supplied by the company to Tiger?

5 A Yes.

6 Q Tiger was hired by the first lien ABL lenders to  
7 prepare appraisals of the inventory that was the ABL  
8 lenders' collateral, correct?

9 A Yes.

10 Q And both before and after the petition date, you had  
11 discussions with the ABL lenders and their advisors, right?

12 A We did.

13 Q And prior to the petition date leading up to the  
14 filing, you told the ABL lenders that Tiger's NOLV's were  
15 conservative, correct?

16 A About a year prior to it, yes.

17 Q Well, you tell me in your deposition it was leading up  
18 to the filing, you told them it was conservative, right?

19 A We were leading up to it at that point, yes. That the  
20 (indiscernible) was around November the year before.

21 Q And you understand that the source of Ms. Murray's 88.7  
22 percent NOLV is the Tiger appraisal dated September 28th,  
23 2018, right?

24 A Yes.

25 Q And if you look in your exhibit binder at Tab 1, you

1 see what is Joint Exhibit 4, the Tiger appraisal dated  
2 September 28th, 2018. Do you see that?

3 A I do.

4 Q And you'd agree with me that this September 28th  
5 appraisal, if you look at the cover page, it has an  
6 inventory date of October 6, 2018?

7 A Yes.

8 Q Okay. Let's turn to Page 6 of the appraisal, please.  
9 And the JX Bates Number is JX004-8. Do you see that?

10 A I see it.

11 Q Okay. Do you see that on Page 6, under the heading  
12 "Sale Expenses", Tiger said, "Expenses for the retail JOB  
13 inventory sale included in this analysis, consists of two  
14 categories"?

15 A I do.

16 Q And you see those two categories are direct sale  
17 expenses and non-direct sale expenses, right?

18 A Yes.

19 Q And do you see that Tiger said non-direct sale expenses  
20 include royalty payments, (indiscernible) liquidation fees  
21 and corporate overhead required to support the retail store  
22 JOB sales?

23 A That's what it says, yes.

24 Q And you don't know whether during the time period you  
25 were telling the ABL lenders and their advisors that Tiger's

1 NOLVs were conservative. Whether those NOLVs included any  
2 more corporate overhead than what's described here on Page  
3 6, right?

4 A It was about a year earlier. I assume they were using  
5 a similar methodology.

6 Q And post-petition, you've never told the ABL lenders or  
7 their advisors that you disagreed with any of Tiger's NOLVs,  
8 right?

9 A We have not.

10 Q Mr. Griffith, do you recall in your second supplemental  
11 declaration you discussed Ms. Murray's inclusion of in  
12 transit inventory as part of her inventory valuation?

13 A Yes.

14 Q Okay. And do you recall you included that discussion  
15 in a section of your second supplemental declaration titled  
16 "Problems with 2L Expert's Inventory Valuations"?

17 A It sounds correct, yes.

18 Q Okay. In fact, your 507(b) analysis includes in  
19 transit inventory, right?

20 A Well, the fair market on a book basis, yes, not in an  
21 NOLV.

22 Q And your analysis values the in transit inventory at 85  
23 percent, just like you value the rest of the inventory,  
24 right?

25 A When you take 85 percent of the book value of all

1 inventory, yes.

2 Q Do you know what Ms. Murray valued the inventory at,  
3 the in transit inventory at?

4 A Is it in this Tiger report?

5 Q It is not. But do you recall what she valued the in  
6 transit inventory at?

7 A I don't recall.

8 Q Okay. Does 51.6 percent sound correct?

9 A It could be.

10 Q Okay. And I'll represent to you that she valued it at  
11 a 51.6 percent NOLV. So Ms. Murray valued the in transit  
12 inventory at a lower percentage than you did, correct?

13 A It sounds like it, yes.

14 Q Let's talk about Abacus for a minute. Abacus is a  
15 liquidator, correct?

16 A They are.

17 Q And Abacus was the company's liquidation advisor, is  
18 that right?

19 A Yes.

20 Q And you'd agree that Abacus was highly experience in  
21 running JOB sales for Sears?

22 A They were.

23 Q And prior to the petition date, Abacus has liquidated  
24 hundreds of Sears and K-Mart locations, right?

25 A Yes.

1 Q It was Abacus that handled the liquidation of 200 plus  
2 JOB stores during this case?

3 A Yes.

4 Q And you'd agree that in December of 2018, Abacus  
5 projected NOLVs of 90.2 percent to 93.7 percent in the event  
6 Debtors pivoted to a liquidation?

7 A I'd have to see the document and (indiscernible).

8 Q We could look in your exhibit binder at Tab 4. And for  
9 the record, this is Joint Exhibit 17. It's a deck titled  
10 "Project Blue Liquidation Bits Review". And Mr. Griffith,  
11 you could turn to Page 3, the JX Bates Number is 017-3. Do  
12 you see it?

13 A Okay.

14 Q Are you with me?

15 A I am.

16 Q And do you see this slide is titled "Abacus Net  
17 Recovery Projection"?

18 A Yes.

19 Q And do you see the first bullet says "Abacus and the  
20 company project a final net orderly liquidation value  
21 (indiscernible) merchandise of 90.2 and 93.7 percent?"

22 A Before liquidation fees?

23 Q I thought you might say that. If you look down at the  
24 chart at the bottom, do you see there's a bolded line near  
25 the bottom of the chart that says "Net recovery before

1 liquidator fee"?

2 A Yes.

3 Q Okay. And do you see the figures before liquidator fee  
4 are 90.3 percent and 93.8 percent?

5 A Yes.

6 Q And then do you see two rows down, there's net recovery  
7 after liquidator fee?

8 A I see it.

9 Q And do you see those values are 90.2 percent and 90  
10 point -- 93.7 percent?

11 A I do.

12 Q Okay. So that 90.2 percent and 93.7 percent, they  
13 match the figures up at the top in the first  
14 (indiscernible), correct?

15 A Yes.

16 Q Okay. So I read the before liquidation fees in that  
17 first bullet as a typo and rather, it should say after.  
18 Would you agree with that?

19 A Yes.

20 Q Okay. And do you see here on this slide it says Abacus  
21 on the company projected those NOLVs?

22 A I do.

23 Q Okay. So this was not just Abacus' projection, but the  
24 projection of the company, correct?

25 A That's what it says, yes.

1 Q All right. And then, if you look at the bullets that  
2 have dashes in front of them, do you see the third one that  
3 begins "Expense categories are taken from Tiger's  
4 appraisal"?

5 A I see it.

6 Q Okay. And do you see it goes on to say, "With expense  
7 amounts estimated here in (indiscernible)." And it gives a  
8 number of bases, including Tiger's estimates for certain  
9 expenses. Do you see that?

10 A I do.

11 Q So this is another example of the company relying on  
12 Tiger, right?

13 MR. GENENDER: Your Honor, I'm going to object.  
14 That totally conflates the exercise what -- exactly for  
15 what. I mean, he's talking about liquidation, which didn't  
16 happen. It's a leading question.

17 THE COURT: He's relying on Tiger for the purposes  
18 of this particular analysis.

19 MR. LIUBICIC: Yes.

20 THE COURT: That's what it is.

21 MR. LIUBICIC: Exactly.

22 MR. GENENDER: It's irrelevant to -- I object to  
23 its relevance.

24 THE COURT: It's (indiscernible) relevant.

25 MR. LIUBICIC: It does say we're (indiscernible)

1 on Tiger on this one.

2 Q And Mr. Griffith, at a January 5th meeting of the  
3 Restructuring Committee that you attended, Weil recommended  
4 in the event of a wind down the company proceed with a  
5 liquidation advisory team consisting of Abacus and SB360,  
6 right?

7 A That sounds correct, yes.

8 Q And you stated in your supplemental declaration, your  
9 June 27th declaration that it's possible that Debtors  
10 would've accepted an equity bid for their liquidation of the  
11 company, correct?

12 A It's possible.

13 Q Okay. Abacus and SB360 didn't submit equity bids for  
14 the liquidation of the company, correct?

15 A I mean, it never happened. It's possible they could  
16 have, if we switched directions and abandoned going in a  
17 certain sale.

18 Q At the time Weil was recommending that the company use  
19 a team of Abacus and SB360, they had not submitted equity  
20 bids, correct?

21 A Not that I'm aware of.

22 Q And in fact, the equity bids that were submitted by  
23 other liquidators, those were deemed nonconforming by the  
24 company, correct?

25 A The last versions I saw, I think that's correct.

1 Q Mr. Griffith, you recall in Paragraphs 9 and 10 of your  
2 supplemental declaration, you point to a number of risks of  
3 a liquidation that you argue would reduce overall  
4 recoveries?

5 A Yes.

6 Q And I'm happy to show you those paragraphs, I'm just  
7 trying -- doing this in the interest of time. But if you  
8 want to look at them, that's totally fine.

9 A Okay.

10 Q Your views about the costs and the margins that would  
11 be realized in a wind down or a liquidation, those are based  
12 on your general understanding of how liquidations of  
13 retailers work, correct?

14 A That's right.

15 Q You've never personally been engaged in a Chapter 11  
16 orderly liquidation of a retailer, right?

17 A I have not.

18 Q And you've never been engaged in a Chapter 7  
19 liquidation of a retailer, right?

20 A I have not.

21 Q And you've never been engaged in a Chapter 7  
22 liquidation of a retailer, right?

23 A No.

24 Q And you're not aware of any retailers who have  
25 converted their cases to a Chapter 7, correct?

1 A Not that I've been involved with, no.

2 Q I'm sorry?

3 A Not that I've been involved with, no.

4 Q You've never been engaged in what you call a fire sale  
5 liquidation of a retailer, correct?

6 A I'm not a liquidation expert, no.

7 Q And you haven't attempted to quantify by how much a  
8 wind down would reduce overall recoveries, right?

9 A It didn't happen here, so we focused on the actual  
10 transaction that occurred.

11 Q Okay. So the answer to my question is no, you haven't  
12 attempted that, right?

13 A I have not done that (indiscernible), no.

14 Q And you haven't quantified what you refer to in your  
15 supplemental declarations as the margins in a fire sale,  
16 right?

17 A We have not or I have not.

18 Q No.

19 MR. LIUBICIC: Okay. So Your Honor, I would move  
20 to strike Paragraphs 9 and 10 of Mr. Griffith's supplemental  
21 declaration? He's a lay witness. He just said he's not an  
22 expert in liquidations. He's attempting to offer opinions  
23 about an area of specialized knowledge. What happens in the  
24 liquidation of a retailer. And in addition, to the extent  
25 he's offering those opinions as a lay witness, they're not

1 based on his perception. He's never been involved in a  
2 liquidation of a retailer in bankruptcy. He's not able to  
3 quantify any of these risks, and we submit that violates  
4 Rule 7 or (indiscernible), and those paragraphs that are  
5 supplemental should be struck.

6 MR. GENENDER: Your Honor, he's just responding to  
7 different aspects of their own reports. And clearly Ms.  
8 Murray is making a liquidation analysis in a case that was  
9 always -- that turned out to be (indiscernible). So I don't  
10 know that it's the most important part of this testimony,  
11 Your Honor, but I do think that they're fair and they should  
12 be allowed.

13 THE COURT: Well, I'd strike the second sentence  
14 of Paragraph 9, and the equity bids aren't there in the  
15 record elsewhere, right? Or is this how these equity bids  
16 come in? Are they in the record? The Gordon brothers  
17 proposed Tiger (indiscernible) America bids are they --

18 MR. LIUBICIC: There are some data points on the  
19 record about what the equity bids were.

20 THE COURT: Okay. So I think that's fine, but the  
21 standard about the market's view of (indiscernible) is -- I  
22 mean, the bids just speak for themselves. And as far as 10  
23 is concerned, I think it's irrelevant. So I'm not paying  
24 any attention to 10. This isn't about Chapter 7 in any  
25 case.

1 MR. LIUBICIC: Thank you, Your Honor.

2 Q Ms. Murray notes that there are other indicators of  
3 inventory value, including a January 2019 wind down analysis  
4 that the company prepared that includes an NOLV of 90  
5 percent. Do you recall that?

6 A I recall her mentioning that, yes.

7 Q In your view is that the 90 percent NOLV from the wind  
8 down analysis isn't an appropriate metric because you're not  
9 sure it takes all of the costs associated with the full  
10 liquidation and bankruptcy into account, correct?

11 A That's right.

12 Q But you're not sure you did a very diligenced review of  
13 whether the wind down analysis does or does not take all of  
14 the costs into account, correct?

15 A I was not a part of that analysis, so I can't comment  
16 on it.

17 Q Then it's not -- if I understand you correctly, you're  
18 saying you didn't do any analysis of whether the wind down  
19 analysis took all of the costs (indiscernible)?

20 A If the NOLV in the Tiger report is lower than that, I  
21 would assume it is not taking into account everything. I  
22 think that's at a store level without much overhead  
23 allocation.

24 Q But you didn't do that analysis, right?

25 A I didn't.

1 Q In Paragraph 17 of your supplemental declaration, Mr.  
2 Griffith, you set out what you call an adjusted  
3 (indiscernible) valuation. Do you recall that?

4 A Yes.

5 Q Your adjustments that you make in Paragraph 17 to Ms.  
6 Murray's minimum case analysis, those total about \$600  
7 million in Debtor's favor. Is that about right?

8 A Yes, I think that's right.

9 Q But you're still calling that an adjusted Cyrus  
10 analysis, right?

11 A Based off of the analysis provided by Mrs. Murray.

12 Q Just a few questions on 506(c), the \$1.45 billion in  
13 costs you allege is a portion of the amount that was  
14 incurred to conduct the going sale -- the going concern sale  
15 process, correct?

16 A Yes.

17 Q And we'd agree that in the going concern sale, what was  
18 sold to ESL was not just the 2L collateral, but in fact the  
19 majority of the company's remaining assets, right?

20 A That's right.

21 Q And could we look in your supplemental declaration at  
22 Page 11, Paragraph 18 for a moment?

23 A I'm sorry, which declaration?

24 Q It's your supplemental, the June 27th, and it's  
25 Paragraph 18.

1 A Okay.

2 Q And I'm at the top of Page 11. Are you with me?

3 A I am.

4 Q Okay. Do you see that you stated here that if an NOLV  
5 valuation approach is used, certain reductions to your  
6 506(c) surcharges, and you state certain store level  
7 expenses and corporate overhead allocations would need to be  
8 made to account for the costs included in the NOLV values in  
9 the Tiger appraisal?

10 A Yes.

11 Q You haven't done an analysis of what those store level  
12 expenses and corporate overhead allocations amount to,  
13 correct?

14 A We have not done an NOLV valuation approach. We  
15 focused on the fair market value approach.

16 Q Okay. So the answer to my question is no.

17 A That's right.

18 Q I'll pass the witness.

19 CROSS-EXAMINATION OF MR. BRIAN GRIFFITH

20 BY MR. FOX:

21 MR. FOX: And for the record, Edward Fox from  
22 (indiscernible).

23 Q Good afternoon, Mr. Griffith. In your response to Mr.  
24 Moloney's testimony, I believe you indicated that you  
25 included employee costs in your 506(c) charge for Innovel,

1 Monark, Kenmore, DieHard, Home Services, and perhaps other  
2 entities that I can't even recall, because they were all  
3 part of the retail network. Is that correct?

4 A Yes.

5 Q Okay. So that would mean that all the proceeds from  
6 those entities was the proceeds of inventory as well,  
7 correct?

8 A The costs associated with those were to help move the  
9 inventory one way or another. So it's part of the necessary  
10 costs to actually sell a refrigerator or to move the goods  
11 in and out of a store to sell them online. It's all related  
12 to the inventory collateral, and eventually, the accounts  
13 receivable.

14 Q I'm sorry, what -- I couldn't -- the last part?

15 A And the credit card receivables.

16 Q So my question though, was, are all the proceeds from  
17 those entities, proceeds from the sale of inventory?

18 A A good portion of them are, yes.

19 Q A good portion, but not all?

20 A There may be portions that are not, yes.

21 Q Okay. So you included all the costs of the employees,  
22 even though we don't get all the proceeds are not all  
23 proceeds for inventory. Is that right?

24 A It was part of the going concern sale, yes.

25 Q I didn't ask you if it was part of the going concern

1 sale. I asked you whether you included all of the costs,  
2 even though not all of the proceeds from the sales of  
3 inventory by those entities constituted or -- not all of the  
4 revenues constituted proceeds from the sale of inventory  
5 from those entities.

6 A Yes, I think that's right.

7 Q Okay. Now in your May 26th, 2019 declaration, you  
8 included a list in Paragraph 20 of the 506(c) chart,  
9 surcharge items and the amounts. Do you recall that? Do  
10 you have that?

11 A Yes, I do recall that.

12 Q Okay. So look at Paragraph 20, then, on Page 7.

13 A Okay.

14 Q Have you looked at that?

15 A Yes, I have.

16 Q Okay. And that was your entire written analysis of the  
17 amounts that you assume from the total that should be the  
18 506(c) charges, and they're all listed right there. That's  
19 your entire analysis, correct?

20 A It's the summary for the declaration, yes.

21 Q But there is no underlying data beyond that summary,  
22 correct?

23 A No, there's underlying data.

24 Q There's underlying data that comes to these numbers or  
25 is there underlying data that covers the entire universe of

1 costs from which you selected these numbers?

2 A That is correct.

3 Q Okay. Which is correct?

4 A It's the entire universe that we've selected these  
5 amounts.

6 Q So there's underlying data that shows the entire  
7 universe of the costs, correct?

8 A Yes.

9 Q Okay. And then, from that underlying data, you  
10 selected these particular amounts for these particular line  
11 items, correct?

12 A Yes.

13 Q And there's no further support for these line items or  
14 amounts other than the entire data for which you selected  
15 these amounts, right?

16 A I believe we provided the detailed file that has  
17 everything in it, which would include these pieces, but I  
18 don't know.

19 Q Well, but it had everything, not just this, correct?

20 A I think that's correct, yes.

21 Q Okay. So there's no subset of that overarching data  
22 that was produced from which one could see how you extracted  
23 these amounts in these categories in Paragraph 20 of your  
24 May 26th declaration, correct?

25 A I'm not 100 percent positive. I don't know.

1 Q You're not 100 percent positive?

2 A No.

3 Q But didn't you testify -- don't you recall testifying  
4 on July 10th that this was all you had, was this Paragraph  
5 20? That was your entire analysis?

6 A I think we said we had the detail behind it. I believe  
7 we provided the most detailed schedules. I'm not 100  
8 percent sure. We actually provided the breakdown of these  
9 amounts.

10 Q You're not sure if you provided it.

11 A I don't believe we did.

12 Q Okay. Thank you. Now in your declaration dated July  
13 18th, in Paragraph 32, do you have that?

14 A I do.

15 Q Okay. You say there, similarly the Debtors have  
16 removed any professional fees related to the GOB store  
17 process, the calculation of applicable professional fees was  
18 narrowly tailored. My team and I calculated professional  
19 fees for purposes of the 506(c) charge with assistance from  
20 Counsel. And then you say, with them three's guidance,  
21 while reviewing all the applications for compensation for  
22 fees incurred by the Debtors, and isolated only those  
23 expenses that dealt directly with the going concern sale  
24 process by using the task codes included in those filings.  
25 Do you see that?

1 A Yes.

2 Q In fact, didn't you previously testify at your  
3 deposition that Counsel did that entirely?

4 A They did a lot of the work in terms of actually pulling  
5 the data together. That's a lot of data, but yes, they did.

6 Q But in fact, you didn't personally do it at all, did  
7 you?

8 A We discussed what was supposed to be done and be  
9 included. They actually did a lot of the work in terms of  
10 pulling the data.

11 Q I'm not asking you about we, whoever that is, I'm  
12 asking you about you. You didn't do it, did you?

13 A I did not pull the data myself, no.

14 Q Okay. Counsel did that for you, correct?

15 A Counsel did it, yes.

16 Q Okay. And you didn't know on July 10th at your  
17 deposition whether the professionals who are included in the  
18 \$51 million included Akin Gump or Houlihan Lokey, did you?

19 A I didn't know that off the top of my head, no.

20 Q Okay. And looking at Paragraph 32 of your declaration,  
21 aside from the reference of \$14,927,627 related to Weil  
22 Gotshal's fees, there's no fees listed for any other  
23 professional listed there, right?

24 A That's right.

25 Q Okay. And in the next paragraph, Paragraph 33, you

1 talk about professionals on a fixed fee basis, such as  
2 Evercore, and you say, for Evercore, you came to a ratio  
3 that resulted in including \$400,000 of a million dollar  
4 fixed fee, correct?

5 A Yes.

6 Q Now you say you did the same thing for Lazard and  
7 Houlihan and Lokey, but you don't list how much you -- that  
8 resulted in here, do you?

9 A Yeah, we listed one as an example.

10 Q Okay. And you didn't list the other two, did you?

11 A We did not.

12 Q Okay. So between Paragraphs 32 and 33, there's no way  
13 to determine how you got the \$51 million, is there?

14 A No, there is not.

15 Q Okay. Now one other thing. Excuse me one second. Mr.  
16 Griffith, you also swore a declaration on April 15th, 2019,  
17 which was entitled "The Declaration of Brian Griffith in  
18 Support of Debtor's Objection to the Motion of Wilmington  
19 Trust National Association as Indentured Trustee and  
20 Collateral Agent to Prohibit or Condition Debtor's Continued  
21 Use of Collateral, Including Cash Collateral." That was  
22 filed on the docket at Docket 3198. And in Paragraph 4 of  
23 that declaration, you stated --

24 MR. GENENDER: (indiscernible) was supposed to be  
25 taken up today.

1 MR. FOX: No, no, no. It's relevant to his  
2 testimony today, not for the purposes of (indiscernible)  
3 motion.

4 MR. GENENDER: If he's using it to impeach him,  
5 he's got to show an inconsistent (indiscernible) --

6 THE COURT: Well, he's setting up the question.

7 MR. FOX: Yeah.

8 Q So in Paragraph 4 of that declaration, you've stated,  
9 "The Debtors had no more than approximately \$2.88 billion of  
10 collateral available to secure the first and second lien  
11 debt senior to the second lien 2,000 notes." Do you  
12 remember making that statement, Mr. Griffith?

13 A I don't have a copy of that, but I'd need a copy.

14 Q It doesn't --

15 THE COURT: Mr. Fox has said he's using this for  
16 impeachment purposes, so he can show it to him now.

17 MR. FOX: Thank you.

18 THE COURT: And if it's not for impeachment, you  
19 could stand up again and say he's expanding on the direct.

20 MR. FOX: May I approach, Your Honor?

21 THE COURT: Yes.

22 Q So Mr. Griffith, turn if you would to -- I've handed  
23 you the -- your April 15, 2019 declaration. Turn, if you  
24 would, to Paragraph 4. And read the third line to yourself,  
25 please, the third sentence. I'm sorry. In Paragraph 4 to

1       yourself.

2       A       Okay.

3       Q       All right. So again, let me just ask you again, now  
4       that you had a chance to refresh your recollection. You can  
5       put the document down. Did you state in your April 15th,  
6       2019 declaration that the Debtors had no more than  
7       approximately \$2.88 billion of collateral available to  
8       secure the first and second lien debts senior to the second  
9       lien 2010 notes?

10      A       That's what it appears to say, yes.

11      Q       And that was your sworn statement, correct?

12      A       Yes.

13      Q       Thank you.

14               MR. FOX: Your Honor, based on this, I have no  
15       further questions. But based on Mr. Griffith's testimony, I  
16       would ask that Paragraph 32 of his second supplemental  
17       declaration -- I'm sorry, Paragraphs 32 and 33 of his second  
18       supplemental declaration be stricken. And those relate to  
19       the 506(c) costs for the professions.

20               THE COURT: This has nothing to do with his  
21       declaration, right? That's -- you're going back to his  
22       earlier testimony before his last question?

23               MR. FOX: Yes. Yes, I'm going back now. I have  
24       no further questions.

25               THE COURT: Okay, all right.

1 MR. FOX: So going back to his --

2 THE COURT: All right, so do you have a response  
3 to that?

4 MR. GENENDER: Yeah, no. Thank you, Judge. I'll  
5 make a segue to it. Judge, he's -- it is exactly what he  
6 did and the fact that --

7 THE COURT: I'll take it for what it's worth, you  
8 cross-examined him on it. I think there's -- I get -- I  
9 understand your cross-examination. I'm not going to strike  
10 it.

11 MR. FOX: Okay, fine. We've also designated that  
12 testimony, as some additional testimony, but I -- but the  
13 point is, we think it's clear that he has no personal  
14 knowledge of this at all and other people did it for him.  
15 And now, he's testifying that he knows what happened. Thank  
16 you, Your Honor.

17 THE COURT: Okay. Well, he refers to my team, so  
18 --

19 MR. FOX: Well, in his deposition testimony, Your  
20 Honor, he just said his Counsel did it and he didn't know.  
21 And when he was asked what -- about certain specific  
22 professionals, he knew nothing about whether they were  
23 included or not. And that's the problem. And even with  
24 respect to his testimony here, he (indiscernible) --

25 THE COURT: I --

1 MR. FOX: \$51 million can't be determined.

2 THE COURT: I view the Counsel as part of the  
3 team.

4 MR. FOX: Thank you, Your Honor.

5 THE COURT: Okay. And they're probably most  
6 knowledgeable in terms of evaluating (indiscernible) amount.

7 MR. GENENDER: So look, I was hitting the big  
8 trifecta, Judge. I'm just going to try and get organized  
9 with these notes here, okay?

10 THE COURT: Okay.

11 RE-DIRECT EXAMINATION OF MR. BRIAN GRIFFITH

12 BY MR. GENENDER:

13 Q Mr. Griffith, do you have your second supplemental  
14 declaration in front of you?

15 A I do.

16 Q Can you turn to Exhibit H in your second supplemental  
17 declaration?

18 A Okay.

19 Q That chart is entitled "506(c) Expenses". Do you see  
20 that?

21 A I do.

22 Q And it breaks expenses that you totaled according to  
23 the time period that's reflected there. Do you see that?

24 A I do.

25 Q Does that roughly correspond to the date of the ESL bid

1 through the APA being signed, and then the date of the APA  
2 being signed through the APA closing?

3 A It does, yes.

4 Q First, you totaled the first number to be \$273 million  
5 of expenses, and the second number to be \$254 million of  
6 expenses?

7 A That's right, yes.

8 Q And the pages following, is that the backup for those  
9 figures?

10 A It is.

11 Q Okay. Exhibit I, while we're there, please? You had  
12 just asked your original declaration before we had anything  
13 on 507(b) or 506(c) from the two L's on May 26th had a chart  
14 of the total (indiscernible) \$451 billion of expenses,  
15 correct?

16 A That's right, yes.

17 Q Is that the same number that's reflected on Exhibit I  
18 in your direct testimony declaration that was submitted last  
19 week?

20 A It is, yes.

21 Q Now the pages that follow, the backup?

22 A Yes.

23 Q And the last page, the JOB store on non-sale related,  
24 are those the items on the backup that were excluded?

25 A As we excluded, yes, for the (indiscernible).

1 Q So just to be clear, notwithstanding the fact that this  
2 particular copy that I'm looking at is hard to read, if you  
3 took that backup less what is on the last page, the \$295.3,  
4 would you end up with the \$1.45 billion?

5 A Yes.

6 Q Thank you, sir. Can you find Mr. Riecker's declaration  
7 in one of the -- in the notebook that was provided to you --  
8 it feels like a long time ago, by Mr. Norman. Do you have  
9 that?

10 A I do.

11 Q You asked about, I believe it was Paragraph 8, is that  
12 right?

13 A Yes.

14 Q You were also asked about this in your deposition, is  
15 that correct?

16 A I was, yes.

17 Q Do you believe Mr. Riecker made a mistake in this  
18 paragraph?

19 A I believe the \$2.74 is not accurate, yes.

20 Q All right. Did you testify that in your deposition?

21 A I did.

22 Q How do you believe it's inaccurate?

23 A I believe they've taken the closed book value as  
24 opposed to the NOLV, which they -- I would assume meant to  
25 take it from the borrowing base.

1 Q Okay. While we're on that, I'd like to ask you about  
2 the April 15th declaration that Mr. Fox just handed you.  
3 You should have it loose copied.

4 A Yes.

5 Q He asks you about the \$2.88 billion that you're on  
6 Paragraph 4. Do you see that?

7 A I do.

8 Q Your sentence in your declaration says, "As provided in  
9 the borrowing base certificate attached as Exhibit 1." Do  
10 you see that?

11 A I do.

12 Q If you turn to Exhibit 1, the borrowing base  
13 certificate, do you see anywhere on that the borrowing base  
14 certificate, that \$2.88 billion figure?

15 A I do not.

16 Q Okay. Might that \$2.88 billion figure in Paragraph 4  
17 of your April 15th declaration, might that be a mistake?

18 MR. FOX: Objection, Your Honor. That's a leading  
19 question.

20 THE COURT: You can ask it.

21 A It appears it can be possible, yes.

22 Q Okay. Would you defer, sir, instead, to what the  
23 referenced exhibit in this sentence says for the value of  
24 the inventory?

25 A I'm sorry, could you repeat that?

1 Q Would you instead -- your sentence that you were asked  
2 about referred, as provided in the borrowing base  
3 certificate attached is Exhibit 1 --

4 A Yes.

5 Q What does that say as to the value of the inventory?

6 A Yeah, I mean, here we have the stock lender and the net  
7 eligible inventory as of that October 13th date in the  
8 exhibit.

9 Q I said inventory to be fair, that your text says  
10 collateral, correct?

11 A Correct.

12 Q Okay. Thank you. Have you ever seen a liquidation of  
13 a company -- a full-on liquidation of the company the size  
14 of Sears, a full-on liquidation?

15 A I have not been part of it, no.

16 Q You were asked questions about the letters of credit.  
17 In fact, that they secured obligations under -- the  
18 obligations as secured, right?

19 A Yes.

20 Q And do you have an understanding as to what then the  
21 vast majority -- you heard Ms. Murray's testimony that 89.1  
22 percent related to worker's comp?

23 A Yes.

24 Q Claims? Do you have a view, based on your knowledge,  
25 personal knowledge, as to how long out into the future those

1 obligations can go?

2 A I do.

3 Q What is that view?

4 A They can be outstanding for up to 20 to 30 years based  
5 on potential claims filed by ex-employees for slip and fall,  
6 for auto accidents, et cetera. They have in the past year,  
7 paid out over \$26 million in claims under the various  
8 policies that are in place. They can (indiscernible)  
9 outstanding for quite some time. We would expect those LCs  
10 to be either the liability will eventually be paid off as  
11 time goes on through the monthly and weekly and daily kind  
12 of payments or to the extent the company will just stop  
13 performing, they would be (indiscernible).

14 Q Did you rely -- are you relying for any of your  
15 calculations on the Tiger appraisals?

16 A I am not.

17 Q Are you relying on any of the Abacus liquidation  
18 appraisals from later in December or January?

19 A I am not.

20 Q All right. Did you do a liquidation analysis?

21 A Not associated with this, no.

22 Q You were asked questions about risks in liquidation.  
23 Do you recall those questions?

24 A I do.

25 Q I want -- at this point, I want to direct you to what

1 have become rather noteworthy exhibits, Exhibits 8 and 9,  
2 which are also attached to your declaration, to your second  
3 supplemental declaration, okay? Can you get to those,  
4 please?

5 MR. GENENDER: And actually, it might be easier,  
6 Your Honor, the excerpts I'm going to ask questions about  
7 are in the (indiscernible) that's still underneath the piles  
8 we've given you today.

9 MR. MOLONEY: Your Honor, may I be heard on this,  
10 please?

11 THE COURT: Okay.

12 MR. MOLONEY: I have two objections. One, it's  
13 beyond the scope. I asked no questions about these exhibits  
14 at all. And second, I want to continue my objection to  
15 (indiscernible) evidence.

16 MR. GENENDER: Judge, he absolutely referred  
17 directly to offer. I mean, I'm just trying to move them  
18 into evidence at this point. I mean, the issue of the fair  
19 market value of the collateral as of the sale date is what  
20 he's testified about is (indiscernible) --

21 THE COURT: You can move to offer them into  
22 evidence, but I don't think you can ask any questions about  
23 them --

24 MR. GENENDER: All right.

25 THE COURT: -- because it wasn't the subject of

1 cross.

2 MR. GENENDER: Okay.

3 Q Mr. Griffith, Exhibits 8, what are marked as Joint  
4 Exhibit 8 and 9 are attached to your declaration, is that  
5 correct?

6 A Yes.

7 Q And they're attached to your second supplemental  
8 declaration as Exhibits A and B, is that correct?

9 A I believe so, yes.

10 Q Can you describe -- do you have personal knowledge of  
11 the documents?

12 A I do. These were documents that were provided during  
13 the course of negotiations to get the going concern and  
14 transaction completed.

15 Q Do you know who prepared each of the documents?

16 A I believe ESL and their advisors.

17 Q Were you present when these were presented?

18 A I was.

19 Q Did you review either and rely on either of these  
20 documents when you were collecting facts from which you went  
21 about determining factually what the fair market value of  
22 the second lien collateral was that was sold as part of the  
23 sale transaction?

24 A Yes, we did.

25 MR. MOLONEY: (indiscernible) --

1 THE COURT: May I have (indiscernible) on this?

2 (indiscernible) --

3 RE-CROSS EXAMINATION OF BRIAN GRIFFITH

4 BY MR. MOLONEY:

5 Q Were either of these documents contained in your  
6 initial declaration?

7 A They were not in the initial declaration, no.

8 Q And then you filed another declaration. Were either of  
9 these documents contained in your second declaration?

10 A We were looking to make the point stronger by  
11 (indiscernible) --

12 Q Can you answer my question? Were either of these  
13 documents referred to in your second declaration?

14 A I don't recall if we talked about the fact that we had  
15 additional documents.

16 Q You may look at it.

17 A I don't believe we referenced them in the second -- or  
18 in the first supplemental.

19 Q Okay. And had you concluded your factual investigation  
20 before your first declaration under oath as to the value of  
21 the collateral? Yes or no?

22 A Can you repeat the question?

23 Q Had you concluded your factual declaration as of -- as  
24 to -- your first declaration under oath, as to the value of  
25 collateral?

1 MR. GENENDER: This is not appropriate  
2 (indiscernible) --

3 MR. MOLONEY: Well he said that -- the question  
4 was it was part of his factual investigation. I'm finding  
5 out whether in fact it was part of his factual, "factual"  
6 investigation, because if that's the predicate for admitting  
7 it, that was -- it apparently is not true.

8 THE COURT: Continue.

9 A It was the basis all along for how we understood the 85  
10 cents. We pointed to the APA initially, I think to support  
11 that, we also wanted to offer up additional documents that  
12 we had.

13 Q You did not -- but did not refer it in either of your  
14 two declarations?

15 A They're in my third declaration, yes.

16 MR. MOLONEY: Thank you. We object, Your Honor,  
17 to the use of these documents.

18 THE COURT: Okay, on what basis?

19 MR. MOLONEY: We object to them on the grounds  
20 that they're parole evidence, on the grounds that the  
21 (indiscernible) before he was deposed in this case, he had  
22 to produce them. And that -- those are the two grounds.

23 THE COURT: Well, I've already ruled on the parole  
24 evidence (indiscernible). As far as the (indiscernible) --  
25 he should've produced them before his deposition. I don't

1 know what the parties agreements or understanding were as  
2 far as document production.

3 MR. GENENDER: I think I've answered that  
4 question, (indiscernible).

5 THE COURT: That's not an expert, so the ESL  
6 wouldn't cover it, as referred to earlier.

7 MR. GENENDER: Well, I believe these were produced  
8 by ESL, but Judge, I'm also going to say this and under the  
9 theory of no good deed goes unpunished, he's not an expert,  
10 but we kept getting declarations according to the expert  
11 schedule, and now it's like, it's not fair that it  
12 (indiscernible) --

13 THE COURT: Well, this is an ESL Bates stamped --

14 MR. GENENDER: Correct.

15 THE COURT: At least 8 is. Let me look at 9.

16 MR. GENENDER: Correct. So in terms of  
17 (indiscernible) --

18 THE COURT: 9 doesn't have a Bates stamp,  
19 actually, but 8 does.

20 MR. GENENDER: They were produced, Your Honor, by  
21 ESL. That was a nonsensical comment by Counsel.

22 MR. MOLONEY: This is also, for the  
23 (indiscernible) draft, confidential, not for distribution --

24 THE COURT: They stopped being admitted for the  
25 truth, because this is part of the settlement discussions,

1 but it's being admitted for what the parties were talking to  
2 each other about.

3 MR. MOLONEY: What are we objecting to being used  
4 -- it violates your settlement discussions --

5 THE COURT: No, it's not being offered as the  
6 truth. It's being offered as what they discussed.

7 MR. MOLONEY: And understanding what the relevance  
8 is, if it's not for the proof of the documents, I don't  
9 understand what the relevance would be. We object on the  
10 grounds of relevance, too, Your Honor.

11 THE COURT: It's reasonably relevant.

12 MR. GENENDER: I was actually in the process of  
13 trying to lay the (indiscernible) offering.

14 THE COURT: Okay, all right.

15 RE-DIRECT EXAMINATION OF BRIAN GRIFFITH

16 BY MR. GENENDER:

17 Q Mr. Griffith, do you have the ESL bid summary in front  
18 of you?

19 A I do.

20 Q Okay. Is this a document that -- let me ask you a  
21 question. Were you aware of the contents of these two  
22 documents prior to preparing your second supplemental  
23 declaration?

24 A Yes, I was.

25 Q Okay. Do these documents confirm your memory of those

1 two presentations?

2 A They do.

3 Q Do they provide context that factored into your factual  
4 understanding of the value of the collateral in connection  
5 with the sale?

6 A Yes, they do.

7 Q Do they reflect -- does it inform your factual  
8 understanding to know how ESL, Counsel's own client referred  
9 to the value of the very collateral at issue?

10 A It does, yes.

11 Q Without reading the contents, because the documents are  
12 not yet into evidence? If you can turn to the pages that  
13 says JX or it doesn't say it there, it's the fourth page of  
14 the ESL bid presentation?

15 A Yes.

16 Q It says, "Transaction overview sources and uses." Do  
17 you see that?

18 A I do.

19 Q I do not want you to read this out loud. In Footnotes  
20 7 and 8, did you recall Footnotes 7 and 8 before attaching  
21 this document to your declaration?

22 A Yes, I do.

23 Q Okay. Did you recall the references to the LC  
24 facilities above, on that same page in connection with your  
25 declarations?

1 A I do, yes.

2 Q Could these confirm those recollections?

3 A It does.

4 Q If you can turn to the page of the presentation, it  
5 says Page 12. Do you see the line that says "At  
6 Illustrative Purchase Price"? That's a yes or no.

7 A I see it. Yes.

8 Q And there's a number under going concern. Do you see  
9 that?

10 A I do.

11 Q Above that it says, "Remaining ABL Collateral." Do you  
12 see that?

13 A Yes.

14 Q How could those numbers for remaining ABL collateral  
15 and at Illustrative purchase price, how do they compare with  
16 numbers that aren't in Sections 3.1 and 10.9 of the APA?

17 A They're identical.

18 Q Do you see next, this is -- and this is again a  
19 document prepared by ESL, right?

20 A It is.

21 Q Do you see there, next to going concerns, it says,  
22 "Liquidation"?

23 MR. MOLONEY: Your Honor, he can't read from the  
24 exhibit. It's not in evidence and he can't ask him about  
25 the numbers. This is -- either we're going to get a foot in

1 evidence and we'll have an objection, including under Rule  
2 408 and parole evidence and relevance, because the date's  
3 way off in terms of when our offer bids were made, or it's  
4 not going into evidence. But we can't -- they shouldn't be  
5 able to (indiscernible) --

6 THE COURT: You've already set up the context for  
7 the first one. You should just -- you should do this  
8 (indiscernible). So --

9 MR. GENENDER: Thank you.

10 THE COURT: Are you offering it into evidence?

11 MR. GENENDER: I am offering it. Yes, Your Honor.

12 THE COURT: Okay.

13 MR. GENENDER: I think I heard three objections.  
14 I am offering (indiscernible), and Your Honor, that's --

15 MR. MOLONEY: And Your Honor, we would object on  
16 three grounds. We object on the grounds of parole evidence,  
17 understanding and respecting Your Honor (indiscernible)  
18 ruling. We object under Rule 408, because we don't believe  
19 that these -- that they're not being -- we don't think that  
20 Rule 408 permits the use of these documents in trial context  
21 for what we said during the discussions. That's what this  
22 witness -- that's the only purpose of doing that.

23 And we object on relevance for multiple reasons.  
24 One is it's -- and we object to it on the grounds that it's  
25 an incomplete document. Four, because there's a preamble to

1 it that says that if we have the full document, it would say  
2 that this is not an offer. This is not something you can  
3 rely on. This is not an indication. So we object on all  
4 four grounds.

5 MR. GENENDER: Your Honor, the joint exhibit list  
6 only reserves a right to argue relevance of any joint  
7 exhibit and to argue that a joint exhibit is in proper  
8 parole evidence, supported rule on parole evidence, and this  
9 is -- I think the Court's also ruled on relevance.

10 And Judge, the last point I'd say is, and the  
11 UCC's Counsel can chime in as they deem appropriate, but we  
12 have a --

13 MR. MOLONEY: (indiscernible) --

14 MR. GENENDER: Excuse me.

15 MR. MOLONEY: Sorry.

16 MR. GENENDER: That we have equitable arguments,  
17 and I know the UCC does as well. And they certainly go to  
18 that, to the extent that the ESL is taking directly contrary  
19 positions now than those that were taken at the operative  
20 times, regarding the very facts and trying to -- and argue  
21 inequitably benefit from that at the expense of other  
22 stakeholders.

23 MR. MOLONEY: Just for the benefit of the Court,  
24 I'd like to read to Rule 408, Your Honor, prohibited use.  
25 Evidence of the following is not admissible on behalf of any

1 party, either to prove or disprove the validity or amount of  
2 the disputed claim. This 408 could not be clear, I think  
3 it's appropriate on three independent grounds, but under  
4 408, it's clearly inappropriate.

5 MR. GENENDER: Judge, it's not a settlement  
6 communication. They're trying to get us -- ESL is trying to  
7 get us to accept a bid. They're trying to get us to --

8 MR. MOLONEY: We're trying to get a release.

9 MR. GENENDER: And it's a very complicated deal.

10 MR. WEAVER: Your Honor, just for the record, I  
11 want to (indiscernible) all (indiscernible). Your Honor,  
12 (indiscernible).

13 MR. GENENDER: You're a Judge, I provoked the UCC  
14 to come to my rescue.

15 MR. SORKIN: Your Honor, Joseph Sorkin, of Akin  
16 Gump on behalf of the UCC. I don't know that I'm adding  
17 anything new other than to simply point out when you  
18 understand the context of the (indiscernible) log units  
19 we've made to judicial estoppel on 19 hands. This is  
20 exactly the sort of information that we are highlighting,  
21 because on the one-hand, you had ESL as the potential  
22 purchaser saying the inventory should be valued at a certain  
23 amount, 85 percent -- excuse me, 85 cents as a going  
24 concern, 82 and a half cents as a liquidation.

25 And then here, ESL as a second lien, saying

1 something completely different, that you have a 99 cent  
2 value. This goes to the equitable arguments, setting aside  
3 whether or not it could be admitted as evidence of -- parole  
4 evidence, which I think has already been ruled on, that's  
5 not what it's being used for.

6 But it is simply going to -- the statements they  
7 have made at the time about the value in connection with the  
8 sale that they were pursuing and advocating from the  
9 beginning of these cases. So I think separate and apart  
10 from everything else that has been raised, it is certainly  
11 admissible with respect to the equitable arguments that have  
12 been raised.

13 MR. MOLONEY: Your Honor, from a legal point of  
14 view, the fact that they want to raise it for an equitable  
15 argument or a legal argument is totally relevant. So that  
16 argument's irrelevant other than that they're just trying  
17 not to poison the well by actually informing Your Honor a  
18 part of the story.

19 It's a more complicated document. Part of it  
20 required that (indiscernible) a release. Part of it was an  
21 indication of (indiscernible) value. Part of it was an  
22 effort on our part to compare apples and oranges, apples to  
23 apples and oranges to oranges at an earlier point in time,  
24 well before actually any of the bids occurred in this case,  
25 any of the contracts were drafted, well before additional

1 billion dollars in value was put in play.

2 THE COURT: I understand that point. That goes to  
3 the weight I gave it and how relevant I think it is.

4 MR. MOLONEY: Right. 408 just says you just can't  
5 use it, and we shouldn't have even started down this road.

6 THE COURT: Well --

7 MR. MOLONEY: And I think that 411 of this rule  
8 does as well, with all due respect.

9 THE COURT: It's hard for me to see that all of  
10 this is covered by 408.

11 MR. MOLONEY: I don't think you can

12 (indiscernible) --

13 THE COURT: Well --

14 MR. MOLONEY: If it's relevant to a  
15 (indiscernible) claim regardless, Rule 408, that's exactly  
16 the prohibitive real use of the Rule 408. That's what 408  
17 says.

18 THE COURT: But this isn't -- this isn't the claim  
19 that you were negotiating. The only claim you were  
20 negotiating here was the release.

21 MR. MOLONEY: It does really -- that's not what  
22 408 says. 408 says if it's being used for a claim and the  
23 prohibitive use, if it falls not in this (indiscernible),  
24 but even to approve or disprove the validity of the matter  
25 of the disputed claim or to impeach by a prior existing

1 statement or a contradiction. And there are exceptions, and  
2 they're not falling under any of the exceptions. I think in  
3 a bankruptcy context, Your Honor, there are all types of  
4 negotiations that go on for people saying at the very  
5 beginning, this is a 408 discussion and expect that the  
6 confidence shows -- the value of those discussions and what  
7 they say back and forth are not going to appear in a Court  
8 hearing later on.

9 I think this is a broader issue than just this  
10 particular argument in this case, and I think as a policy  
11 matter, this is not appropriate.

12 MR. GENENDER: The document's not marked 408, it's  
13 --

14 THE COURT: One of them is. The second one is,  
15 but you're not just dealing with the first one.

16 MR. GENENDER: Yeah. And one of the Joint Exhibit  
17 8 is actually produced with an ESL Bates number on it.

18 MR. MOLONEY: 408 does not protect us from the  
19 discovery, Your Honor. I'm not arguing it does. It does  
20 protect us against this use of information in Court.

21 THE COURT: I (indiscernible) have the statute in  
22 front of me and the rule on this just appeared.

23 MR. MOLONEY: I could approach the bench. I can  
24 hand it off, the rules.

25 THE COURT: So again, the context here is

1 compromising or attempting to compromise a claim or to a  
2 compromised negotiations about the claim, not just general  
3 negotiations.

4 MR. MOLONEY: I think no one's going to say that  
5 our 507(b) claims are -- or (indiscernible) claims are not  
6 part of this whole picture.

7 THE COURT: But that's not what people are  
8 negotiating here. This is a sale negotiation.

9 MR. MOLONEY: Well, actually, it's a negotiation  
10 over a complete resolution, as I said, it's an incomplete  
11 document, so we don't have to get any release.

12 THE COURT: Well, is there any mention of 507(b)  
13 here? I understand there are discussions about the release  
14 might be confidential, but I --

15 MR. MOLONEY: But they may -- Your Honor, the  
16 complete document, I don't even know whether that 507(b)  
17 gets mentioned. But that certainly was the fact that there  
18 would be administrative claims asserted as part of the  
19 ongoing negotiations, (indiscernible) of all of these  
20 discussions.

21 MR. GENENDER: Judge, I'm looking at 8, Your  
22 Honor, produced by ESL. ESL bid details, why ESL's bid  
23 should prevail to the party to whom they're making the bid.  
24 That's not settlement. And then, the litigation  
25 considerations. We're not focused on the litigation

1 consideration portion anyway.

2 And Your Honor, this -- their arguments might make  
3 sense. Are we litigating the release that became part of  
4 the APA. We're not. It's already in the APA. So the  
5 argument -- there's nothing being compromised here, and  
6 frankly, what they're trying to do is use this, this --  
7 before this Court of equity, taking an equitable position by  
8 shielding the very evidence that shows how disingenuous the  
9 positions are that they're taking now, and questioning and  
10 suggesting to this fact witness that 85 cents has no bearing  
11 anywhere, except in their own documents.

12 And by the way, January 2nd was after they'd  
13 already submitted their initial bid. And they were inducing  
14 us -- the inducement was to get us to accept their bid, as  
15 this Court knows far better than me.

16 MR. MOLONEY: The next page, Your Honor, this is  
17 why we -- if I can approach the bench? If you look at JX08-  
18 14, you'll see that in the very next page, it's not in this  
19 binder, the shortened binder of the exhibit. It says, "As a  
20 result of the decrease of value, the 2L inter-collateral,  
21 ESL is a valid super priority claim of previously uncovered  
22 assets." It was quite -- this is the -- this is what we're  
23 looking over. It's right here in the next page of this  
24 presentation.

25 THE COURT: Let me see that. These are just

1 questions, though. This is not part of the negotiation.

2 It's like a separate (indiscernible) --

3 MR. MOLONEY: (indiscernible) --

4 THE COURT: You are right that it's a -- this is a  
5 separate issue.

6 MR. MOLONEY: Your Honor --

7 THE COURT: Consistent with how the parties have  
8 dealt with this. (indiscernible) --

9 MR. MOLONEY: (indiscernible) is that this is not  
10 relevant, Your Honor.

11 THE COURT: Well --

12 MR. MOLONEY: And it's --

13 THE COURT: I think it's -- I'm not going to  
14 exclude it on relevance. I believe it's --

15 MR. MOLONEY: And not parole evidence, it's  
16 improper parole evidence and --

17 THE COURT: Well, I've already ruled on this.  
18 This is not to enforce an agreement.

19 MR. GENENDER: The only things they've reserved,  
20 Your Honor, under the joint exhibit list were relevance and  
21 parole evidence, and I believe they've ruled on this.

22 THE COURT: Well, 408, if 408 would apply, it  
23 would go to relevance, because if I had to exclude it, then  
24 it wouldn't be relevant. But to me, people slap 408 on  
25 almost everything that they exchange, and this does not seem

1 to be a settlement discussion on a claim for the purposes of  
2 the rule.

3 And it doesn't have to be about 507(b). That's  
4 not -- it doesn't have to be the claim at issue, as to why  
5 it would be excluded or not --

6 MR. MOLONEY: I just think people have -- I think  
7 people have a reasonable expectation, when they attend these  
8 type of meetings, an early stage of the negotiation that  
9 they can make good faith proposals back and forth that are  
10 not going to be part of a hearing like this. I think that  
11 was the intention of putting on -- but I respect Your  
12 Honor's ruling --

13 THE COURT: Okay.

14 MR. MOLONEY: But I think that is the expectation  
15 of people in that circumstance, which I know Your Honor was  
16 in once not too long ago, that they're not going to see  
17 these type of folks show up in a hearing like this. Your  
18 Honor, having said that, Your Honor, I think that this has  
19 very little, if any relevance because that offer was not  
20 accepted. That bid never went forward. That ship sailed  
21 many years later.

22 THE COURT: Well, that's a separate -- that's a  
23 separate issue, all right? So I appreciate that.

24 MR. MOLONEY: I think there is very little  
25 relevance preventing it.

1 THE COURT: Okay, all right. But I actually -- I  
2 think what you're alluding to Mr. Moloney is the types of  
3 confidentiality stipulations and confidentiality orders that  
4 are added in mediations when people are actually mediating a  
5 claim. That wasn't done here. I don't think you have to do  
6 it to protect true negotiations over claims. But to me,  
7 this is a sale proposal, and I don't -- you know, just like  
8 the Tiger and other proposals that are in the record,  
9 they're not excluded because they're settlement  
10 negotiations, I don't think this one is, either.

11 You're right. Part of the proposal was demanding  
12 a release, but I think that stands on its own. I don't  
13 think this ties into that. So I would admit it.

14 MR. GENENDER: That's as to 8, Your Honor? Would  
15 the same apply to 9?

16 THE COURT: Well, let me see. I was actually  
17 looking. In my book, 9 comes first for some reason. And I  
18 was focusing on 9. 8 is the one that actually refers to  
19 408?

20 MR. GENENDER: Yes, that's correct.

21 MR. MOLONEY: Your Honor, I will (indiscernible),  
22 Your Honor, but can I have just for the record, all my other  
23 objections preserved as to (indiscernible) --

24 THE COURT: Sure, absolutely.

25 MR. MOLONEY: Thank you, Your Honor.

1 THE COURT: Yeah.

2 MR. GENENDER: I'd like to offer --

3 THE COURT: As the letter to all parties.

4 MR. GENENDER: I'd like to offer 8 and 9 together.

5 I'm happy to lay predicate for the sources of the uses  
6 document.

7 THE COURT: Okay. Well, I think you already did -  
8 - no, you didn't do it as to 8 yet.

9 (Exhibit 9 is Admitted Into Evidence)

10 MR. GENENDER: Okay. So 9 is in. Let me do that  
11 as to 8.

12 RE-DIRECT EXAMINATION OF MR. BRIAN GRIFFITH

13 BY MR. GENENDER:

14 Q Do you have the document that's attached to your  
15 declaration, Project Transform ESL Bid Presentation, January  
16 2, 2019? I believe it's -- is it Exhibit A or B to your  
17 second supplemental declaration?

18 A I do.

19 Q Okay. Also represent that is marked for identification  
20 as Joint Exhibit 8. Mr. Griffith, is this a document that  
21 you were thinking up in connection with coming up with the  
22 facts that you used to evaluate the collateral on -- in  
23 February?

24 A It is, yes.

25 Q Were you present when this presentation was made?

1 A That's right.

2 Q Do you see on the fourth page of the presentation,  
3 which is also JX8-5, Footnotes 7 and 8?

4 A I do.

5 Q Do you see the references to 85 cents?

6 A Yes.

7 Q Do you see the numbers associated with projected book  
8 value of inventory in Footnote 7?

9 MAN: Judge, what Exhibit are we now in?

10 MR. GENENDER: 8.

11 A I do.

12 Q Do you see the number associated with projected book  
13 value of credit card and pharmacy receivables?

14 A I do.

15 Q If you add those two numbers up, do you see any  
16 correlation to what actually ended up in the APA?

17 A Yes, that's the \$1,657,000,000. It's in the section I  
18 believe that (indiscernible).

19 Q Okay. Did any -- to your knowledge, did those -- did  
20 that number change between January 2nd, 2019, the day that  
21 Exhibit 8 and when the APA was executed on January 17th?

22 A I believe we delivered slightly more inventory, but  
23 (indiscernible) --

24 Q The number that's --

25 MR. MOLONEY: Your Honor, I can't (indiscernible)

1 the answers.

2 Q Did the total number change as was referenced in  
3 Section 10.9?

4 A No, it did not. No.

5 Q If you'll turn to Page 12 of the -- if you will turn to  
6 Page 12 of the document? Do you see the reference "To going  
7 concern and liquidation scenarios"?

8 A I do.

9 Q We talked about the going concern scenario. And there  
10 is a Footnote 2 next to the liquidation scenario. Do you  
11 see that?

12 A Yes.

13 Q Footnote 2 says, "Assumes 85 percent purchase price and  
14 going concern scenario, of a liquidation scenario assumes 82  
15 and a half percent purchase price." Do you see that?

16 A I do see that. Yes.

17 Q Who prepared this document?

18 A ESL and their advisors, I believe.

19 Q On January 2nd, 2018, it was -- 2019, it was presented?

20 A Yes.

21 Q And you were there?

22 A I was.

23 MR. GENENDER: Now I'll offer Exhibit 8 into  
24 evidence.

25 THE COURT: Okay.

1 MR. MOLONEY: The same objections.

2 THE COURT: The same objections, the same ruling.

3 MR. GENENDER: Thank you.

4 THE COURT: So I'll admit it.

5 (Exhibit 8 Admitted Into Evidence)

6 Q Mr. Griffith, are you aware of any analysis, of any of  
7 the potential 506(c) expenses that any of the 2L experts  
8 undertook?

9 A No, I'm not.

10 Q In connection with the different analyses that you  
11 performed, totaling \$1.451 billion and the alternative  
12 numbers for the different dates we talked about, did you  
13 ever take any efforts to ensure that there was no double  
14 counting?

15 A Yes, we did.

16 Q Okay. Is it your testimony that there is no double  
17 counting?

18 A There is no double counting.

19 Q You understand Ms. Murray did, according to her  
20 testimony and NOLV analysis?

21 A Yes.

22 Q In which she took the net eligible inventory and  
23 applied 88.7 to that?

24 A Yes.

25 Q If you have the 507(b) chart, do you see your inventory

1 number is \$2.287 billion, correct?

2 A I do. I see that.

3 Q Could you do a (indiscernible) check, even though you  
4 didn't do an eligibility, a liquidation analysis, could you  
5 do a (indiscernible) check comparison, taking your number of  
6 \$2.287 and dividing it by the same \$2.391 net eligible  
7 inventory number that she did, when she applied 88.7 percent  
8 to that number? If you took as a numerator your \$2.287 and  
9 divided it by \$2.391, did you -- do you know what that math  
10 is?

11 A It would be more than 95 percent or 95 plus.

12 Q Where she had 88.7, you'd have 95 plus?

13 A Yes.

14 Q Mr. Griffith, were the letters of credit, the two  
15 letters of credit part of the sale?

16 A Yes, they were.

17 Q Were the three -- were they part of the purchase price?

18 A Yes.

19 Q Were they \$395 million of the purchase price?

20 A Yes, they were.

21 Q As it relates to the post-petition interest, Judge  
22 Drain asked you a question, what was your purpose in  
23 calculating and including \$34 million of post-petition 1L  
24 interest?

25 A It was just the bare minimum interest we would expect

1 to incur regardless of the path chosen. Again, it's just  
2 related to the first lien debt and not DIP, and only for a  
3 three-month period.

4 Q Mr. Griffith, if that number were not included in the  
5 507(b) analysis, that \$34 million, would it be a 506(c)  
6 potential expense?

7 A It would, yes.

8 Q Did you double count there?

9 A We did not. Like I said, in our analysis we came up  
10 with, there is no diminution in value. There is no 507  
11 date, when we applied for the post-petition first lien  
12 interest. To the extent that that was not going to be the  
13 case where there was a 507(b), we would then have the full  
14 amount for the 506(c) to be calculated.

15 Q As it relates to 506(c), Mr. Griffith, do you have your  
16 second supplemental declaration in front of you?

17 A I do.

18 Q You see Paragraphs 29 and 30 on Pages 15 and 16.

19 A Yes.

20 Q Those are your -- are those your descriptions of what  
21 you included and what you excluded?

22 A Yes, it is.

23 Q Did Counsel for the second lien holders ask you about  
24 those descriptions when they were cross-examining?

25 A No, they did not.

1 MR. GENENDER: I'll pass the witness. Thank you,  
2 Your Honor.

3 MR. MOLONEY: Your Honor, I didn't expect to be  
4 asking about Exhibits 8 and 9, so if you -- I just want to  
5 make sure you know (indiscernible) save full copies, and you  
6 can just make sure we have it?

7 THE COURT: Sure, that's fine.

8 MR. GENENDER: I think they're in your book, Your  
9 Honor.

10 THE COURT: They're attached to his declaration,  
11 right?

12 MR. GENENDER: I don't know if the entire --

13 THE COURT: Is the full copy attached to his  
14 declaration? I'm not sure.

15 MR. GENENDER: Yes. Yes.

16 THE COURT: Okay.

17 RE-CROSS-EXAMINATION OF MR. BRIAN GRIFFITH

18 BY MR. MOLONEY:

19 Q . Well, we'll find out (indiscernible). Let's start  
20 with Exhibit Number 9. Do you have that in front of you?

21 A Which one is that, (indiscernible)?

22 Q It's the first (indiscernible), Exhibit Number 9, it's  
23 dated December 2018.

24 A Okay, yes.

25 Q Okay? And looking at the second page of this exhibit,

1 you see this claimant?

2 A Yes.

3 Q It says, "This presentation is solely for informational  
4 purposes. The presentation is not intended to provide the  
5 basis for a decision on any transaction. The recipient  
6 should make its own independent business and legal decisions  
7 based on all (indiscernible) information. Advice and  
8 recipient's own judgment." And it says in bolded language,  
9 "This presentation is not an offer to sell or a solicitation  
10 or an indication of interest to purchase any security  
11 option, commodity, future loan or currency. It is not a  
12 commitment to underwrite any security to (indiscernible)  
13 funds or to make any investments." Did I read that right?

14 A I do see that, yes.

15 Q And looking to the second page, the footnote you were  
16 looking at begins with the word "Footnote 7 should assume  
17 purchase (indiscernible)," right, on Footnote 7? It's a  
18 number on the top based on the assumption, correct?

19 A That's what it says, yes.

20 Q Right? And the number -- Number 8 is simply an  
21 assumption, right? It says, "Assumed purchase" -- it's an  
22 assumption, right?

23 A That's what it says, yes.

24 Q There's no statement here with an opinion of that,  
25 right?

1 A Just the assumptions they're using here with the  
2 sources and (indiscernible), yeah.

3 Q Thank you. I have no more questions about this  
4 exhibit. I wanted to note, it says in the right hand  
5 corner, "Preliminary draft, confidential, not for  
6 distribution," right?

7 A Yes.

8 Q And was there any discussion in the meeting that people  
9 would not use this information for any purpose, that  
10 (indiscernible) speech as to how to use the information?

11 A I don't recall. I don't believe so.

12 Q Were you at the meeting?

13 A I was.

14 Q Okay. Looking at Exhibit JX08-1, the first page it  
15 should say, Your Honor, "Logic transform ESL bid  
16 presentation." And it should have a stamp, "Highly  
17 confidential, not for distribution subject to Rule 408." Do  
18 you see that?

19 A Yes.

20 Q Mr. Griffith? And it says, in (indiscernible), "Any  
21 information regarding valuation forecasts, projections,  
22 recoveries or treatment of this presentation is for  
23 illustrative and discussion purposes only, and assumes that  
24 all transactions contemplated here are executed in a timely  
25 manner, and that no transaction will be executed unless all

1 transactions are executed as contemplated herein, right?

2 A I see it, yes.

3 Q And the date is January 2, 2019? Is that correct?

4 A Yes.

5 Q And this exhibit has the same disclaimer that we just  
6 looked at at the -- before and the second page, correct?

7 A Yes.

8 Q And including that was not a commitment to make any  
9 investment, right?

10 A Yes.

11 Q And there's -- in the next page, there's one that's  
12 (indiscernible) it says, "Litigation consideration." Is  
13 that right?

14 A Yes, that's one of them.

15 Q And the meeting was in part to discuss litigation  
16 considerations?

17 A Yes, it was one of the topics.

18 Q And was there any discussions beginning this meeting as  
19 to whether the parties would -- how the parties would use  
20 the information that was conveyed during the meeting or  
21 whether they would be under any undertaking to keep it  
22 confidential?

23 A It's a long time, but I don't recall if there was or  
24 was not.

25 Q Were you at the meeting?

1 A Yes, I believe I was.

2 Q Okay. Now if you look at the next page, it's -- it  
3 says beginning, "ESL's pleased to offer its \$4.4 billion bid  
4 for Newco as a going concern." Do you see that?

5 A Yes.

6 Q What's the ultimate bid in this case, the \$4.4 billion  
7 bid?

8 A No, there was -- it was \$5.2.

9 Q So the bid being discussed here is not the bid that was  
10 actually made in this case, right?

11 A I think additional liabilities were assumed.

12 Q And there's a reference here in a rollover debt, they  
13 included both the \$232 (indiscernible) DIP, and the \$271  
14 million of the (indiscernible) facility, correct?

15 A Yes.

16 Q And then your build-up to say that 100 percent wasn't  
17 paid from the collateral on -- under \$3.1 in the ultimate  
18 purchase agreement, you didn't cap the \$271 million,  
19 otherwise you would've gone over 100 percent, right?

20 A To (indiscernible) a separate part of the APA  
21 consideration.

22 Q Okay. And looking at the next page, again, Footnote 7  
23 and 8 did the same as the other footnotes before, and  
24 they're just assumptions. They're no opinions, right?

25 A It says assumed purchase price, yes.

1 Q And turning the page again, it -- go to page date X08-  
2 12. And as a reference to how the two (indiscernible) is  
3 going to be covered by the proposal, right?

4 A What page are you on?

5 Q JX08-12. Page 12 of the presentation. Actually, 11 of  
6 the presentation, but it bears Bates stamp number JX008-12.

7 A Okay.

8 Q You see that? And you see where it says two  
9 (indiscernible)? And it says, "To be used to bid for  
10 inventory and ABL collateral," and you see that bullet  
11 point? And it indicates that the residual claim, I mean,  
12 the portion of the claim that was not bid for inventory or  
13 collateral was to include adequate protection super priority  
14 liens and claims, right?

15 A I see that.

16 Q So basically, did they indicate that they expected that  
17 part of this package that they would obtain adequate  
18 protection and super priority liens and claims for the  
19 remainder of their claim, correct?

20 A That's what they believed, yes, they did.

21 Q And what was discussed about that?

22 A I don't recall the exact conversations. It was a while  
23 ago.

24 Q I have no more questions, Your Honor.

25 THE COURT: Okay.

1 MR. GENENDER: No questions, Your Honor.

2 THE COURT: Okay.

3 CROSS-EXAMINATION OF MR. BRIAN GRIFFITH

4 BY MR. FOX:

5 Q Mr. Griffith, Edward Fox. You asked whether it was  
6 double counting in the 506(c) charges or (indiscernible).  
7 And you said there was no double count. Now you're aware  
8 that there is a professional fee carve-out account in this  
9 case, correct?

10 A Yes.

11 Q Okay. And findings are taken off the top of the first  
12 and second lien collateral and put into the professional fee  
13 carve-out account to pay for the fees and expenses with any  
14 professionals, the hand-off of the second lien holders,  
15 correct?

16 A Yes.

17 Q Okay. And so, that's taken place on a weekly basis,  
18 and as those fees have been approved, they have been paid,  
19 correct?

20 A We fund the account. And then, as with the  
21 applications are approved, we will disperse what we can from  
22 the account. Yes.

23 Q Right. So now once of the surcharges you want includes  
24 \$51 million for professional fees, correct?

25 A As part of the 506(c), yes.

1 Q Okay. And in fact, though, all of those fees are  
2 funded out of the carve-out account in order to pay it out  
3 of the carve-out account ahead of the second lien  
4 collateral, correct?

5 A I mean, we're viewing them as expenses incurred post-  
6 petition for the benefit of the sale, so yes.

7 Q I didn't ask you that. I asked you if those -- that  
8 \$51 million is part of the professional fees that get funded  
9 out of the professional fee carve-out account ahead of the  
10 second liens collateral and paid when those -- as those fee  
11 applications are approved?

12 A Yes, they'd be funded from the (indiscernible) account.

13 Q Thank you. I also wanted to ask you about the letter  
14 of credit facility that came up again. The total is \$395  
15 million of the two letter of credit facilities, correct?

16 A Yes.

17 Q Okay. And one of those is the \$271 million facility,  
18 and I believe that's cash collateralized by ESL and the  
19 Cyrus, correct?

20 A Yes.

21 Q Okay. But nevertheless, you believed that that \$271  
22 million of undrawn LCs should come ahead of the second lien  
23 in the inventory collateral stack, correct?

24 A Yes.

25 Q Okay. And you also said there's \$123.8 million, I

1 think, of letters of credit, which are part of the ABL DIP  
2 loan, correct?

3 A Yes.

4 Q Okay. And so, of the \$850 million that was owing on  
5 the ABL DIP loan at the closing of the sale, part of that  
6 \$850, \$123 was the undrawn letters of credit, correct?

7 A Yes.

8 Q Okay. The \$271 million, though, was not part of that  
9 \$850, correct?

10 A That's correct.

11 Q Okay. So the \$271 million that you're saying encumbers  
12 our collateral ahead of the second lien was not included in  
13 the \$850, correct?

14 A That's a separate facility, yes.

15 Q But it's not included in the \$850, correct?

16 A It's not part of that facility, no.

17 Q Okay. And it's not included in the \$433 million credit  
18 bid, correct?

19 A That's correct.

20 Q Okay. And it's not included in the \$125 million  
21 (indiscernible) loan payoff either, right?

22 A That's correct.

23 Q Okay. So it's an additional \$271 million relating to  
24 the inventory, which has to be paid off at the closing on  
25 top of those amounts that I just referred to, the first lien

1 loan, \$850, the credit bid of \$433 and the \$125

2 (indiscernible) loan, correct?

3 A Yes. It's a different piece, yes.

4 Q Fine. And so, in addition to the \$850 to \$433 and the  
5 \$125, which totals a billion 408, they also had to pay off  
6 an additional \$271 million of letters of credit relating to  
7 the credit bid, which would then total \$1,679,000,000,  
8 correct?

9 A I believe it's the same (indiscernible) structure they  
10 have today, the 271 is still outstanding. It never came  
11 against the borrowing base, but it is not a part of the APL  
12 facility, so it's the same. It might as well --

13 Q But you're counting it against our collateral, correct?

14 A I don't believe I am.

15 Q Well, when you say the \$271 million comes ahead of the  
16 second lien and it adds to the total amount that was  
17 outstanding on top of the first lien ABL, you're adding it  
18 ahead of us, correct?

19 A Well, it is first lien down.

20 Q Okay. So let's go back to my question again. Is the  
21 \$850 million a first lien ABL debt that had to be paid off  
22 that was a lien in on a collateral, \$433 million credit bid  
23 for the second lien, \$125 million five loan, which was a  
24 first lien application. According to you, there's \$271  
25 million additional, which is a lien on the inventory ahead

1 of the second lien. Those four things together total

2 \$1,679,000,000, don't they?

3 A It's a separate part of the APA, but yes.

4 Q But your answer is yes, correct? They total

5 \$1,679,000,000, don't they?

6 A I'd have to do the calculation (indiscernible)?

7 Q Well, go ahead. Would you like me to calculate it?

8 A (indiscernible) --

9 Q Would you like one?

10 A No, I think we're good.

11 Q Okay. So what's the -- do you want to do the

12 calculation and tell me the answer?

13 A It sounds correct.

14 Q Okay. Now what was the amount of inventory in Section

15 10.9 that had to be turned -- collateral that had to be

16 turned over in connection with a closing in the sale?

17 A It's a billion 657.

18 Q Okay. Now if you divide the before, to get to your 85

19 percent, you divided what, what was that formula?

20 A It's the \$850 from the ABL facility, it's the \$433 on

21 the credit bid, and it's the \$100 and -- I believe it's the

22 \$150 term loan, (indiscernible) term loan.

23 Q So you divided the \$1,408,000,000 by -- what was the

24 amount of \$10.9?

25 A \$1,657,000,000.

1 Q By -- and you've got 84.9 percent, correct?

2 A 85 percent, yes.

3 Q Okay. So if you divide \$1,679,000,000 divided by  
4 \$1,657,000,000, you get 101 percent, correct? Is that the  
5 math?

6 A The math is correct.

7 Q Thank you. Thank you.

8 THE COURT: Okay, thanks.

9 DIRECT EXAMINATION OF MR. PAUL GRIFFITH

10 BY MR. GENENDER:

11 Q Mr. Griffith, was the \$271 million line of credit --  
12 letter of credit facility outstanding on the petition date?

13 A Yes.

14 Q Was it paid as part of -- is it paid off as part of the  
15 sale transaction?

16 A It was, yes.

17 Q Is the last bit of math that you did relevant to the  
18 value of the collateral based on your factual observations?

19 A I don't think so. No.

20 Q Did you calculate -- we talked about this in the  
21 response -- there was a discussion at the morning break.  
22 Did you -- during the break, did you calculate the carve-out  
23 funding to date?

24 A Yes, we did.

25 Q Do you recall what that number is?

1 A I believe it was approximately \$213 million.

2 Q Okay. And if that number were included in -- as a  
3 senior debt, would that matter, the \$1.45 billion of 501(c)  
4 potential surcharges expenses that you testified to?

5 A We would remove I think the \$51 million that we've  
6 referenced as a part of the 506(c).

7 Q Okay.

8 MR. GENENDER: May I approach the witness, Your  
9 Honor?.

10 THE COURT: Okay.

11 MR. GENENDER: I have an updated demonstrative,  
12 but (indiscernible) --

13 THE COURT: (indiscernible).

14 MR. GENENDER: I (indiscernible) asked him before  
15 (indiscernible).

16 Q Mr. Griffith, is -- did I just -- is what I handed you,  
17 is that a demonstrative that would -- that was prepared by  
18 you and your team at the lunch hour?

19 A Yes, it is.

20 Q Is the left-hand column Griffith with CO, is that  
21 carve-out? Is that what's (indiscernible)?

22 A Yes, that's the carve-out.

23 Q Okay. Does that fairly and accurately reflect what you  
24 just testified to?

25 A It does.

1 MR. GENENDER: Your Honor, may I pass the  
2 (indiscernible).

3 THE COURT: Okay.

4 Q Do you -- at the meetings you were at in December 2018  
5 and January 2nd, 2019 that would reflect -- that are  
6 reflected in Joint Exhibits 8 and 9, do you have any memory  
7 of anyone talking about confidential settlement of disputed  
8 claims?

9 A I honestly don't recall.

10 Q You have no memory of that?

11 A I do not.

12 Q What, if anything, do you recall anyone on behalf of  
13 ESL at either of those meetings talking about in terms of  
14 the 85 cent references in the documents in connection with  
15 the 2L collateral?

16 MR. MOLONEY: We object, Your Honor.  
17 (indiscernible).

18 THE COURT: I'm sorry, on what basis?

19 MR. MOLONEY: On the basis of the -- of all the  
20 objections I've raised before about it, but (indiscernible)  
21 repeating them.

22 THE COURT: All right, okay. So you can answer  
23 the question.

24 A I can't recall specific conversations, but I know that  
25 this is what was discussed in terms of the (indiscernible) -

1 -

2 Q Do you recall references to the --

3 MR. MOLONEY: I object to that. If he wants to  
4 just --

5 MR. GENENDER: I'm going to ask a different  
6 question --

7 MR. MOLONEY: All right, so I'm not going to --

8 MR. GENENDER: Move to strike that answer.

9 THE COURT: Go ahead.

10 Q Do you recall references to 85 cents during the  
11 meetings?

12 A Yes.

13 Q All right, by who?

14 A By Moelis and ESL, I believe.

15 Q Okay.

16 MR. GENENDER: Thank you, Your Honor.

17 THE COURT: Okay. Anything on that? Okay, you  
18 can step down.

19 MR. GENENDER: Your Honor, the Debtors rest on  
20 this.

21 THE COURT: Okay. All right. Do you have any  
22 rebuttal on the 506(c)?

23 MR. FOX: No.

24 THE COURT: No? All right. Well, I think  
25 notwithstanding, all the work the parties did, they were

1       overly optimistic that I'd be in a position to hear oral  
2       argument and rule today. We should get a date as soon as --  
3       a date for Ms. Lee that is as close to today as possible to  
4       have oral argument and a ruling, I think it'd be half a day  
5       for both -- you know, total half a day for oral argument and  
6       a ruling.

7               MR. FOX: Thanks very much.

8               MR. GENENDER: Thank you, Your Honor.

9               MR. MOLONEY: Thank you, Your Honor. I'm going to  
10       be out of the country next week, Your Honor.

11              MAN: Oh don't even start with me, Tom.

12              MR. MOLONEY: Well, no, I'm just saying.

13              MAN: I tried to get out of here --

14              MR. GENENDER: You were so accommodating --

15              MAN: Your Honor, is it possible tomorrow --

16              THE COURT: Well, talk to Ms. Lee. She runs  
17       (indiscernible). I know (indiscernible), but I  
18       (indiscernible) have -- Thursday afternoon.

19              MAN: Your Honor, in all fairness, I mean, we've  
20       had trouble scheduling with Mr. Schrock until literally last  
21       week, when we had a call before we spoke. He's on a plane  
22       tonight in California. He's doing the closing  
23       (indiscernible), so --

24              THE COURT: So --

25              MAN: I'm assuming that was an oversight.

1 THE COURT: Well, I don't know who's doing the  
2 final arbiting.

3 MAN: He is. We told him that.

4 THE COURT: Well, I think you should talk now  
5 between yourselves, unless you have to go out to the airport  
6 right now, Mr. Schrock, and figure out what days you'd be  
7 available, and then --

8 MR. SCHROCK: Okay. We'll do that, Judge.

9 MAN: Thank you.

10 THE COURT: (indiscernible) is probably not here  
11 at this point, so you could talk to her tomorrow morning.

12 MAN: Okay, thank you, Your Honor.

13 THE COURT: Okay.

14 MAN: Thank you, Judge.

15 MAN: Thank you, Your Honor.

16 (Whereupon these proceedings were concluded at  
17 5:42 PM)

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.

Sonya

Ledanski Hyde

Digitally signed by Sonya Ledanski  
Hyde  
DN: cn=Sonya Ledanski Hyde, o, ou,  
email=digital@veritext.com, c=US  
Date: 2019.08.07 15:31:45 -04'00'

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: July 25, 2019

[& - 2,690,000,000]

Page 1

<b>&amp;</b>	212:20 213:22,24	<b>11th</b> 56:7,18,24	224:5 229:2,17
<b>&amp;</b> 8:3,12,20 9:10 9:18 11:9,16	<b>10.9</b> 239:16 253:3 267:15,24	57:4 96:16,17,22 133:1	<b>16</b> 25:14,22,22 35:24 36:2,9 37:22 256:18
<b>0</b>	<b>10.9.</b> 168:16	<b>12</b> 81:18 180:15	<b>17</b> 207:9 215:1,5
<b>0.7</b> 34:2	<b>10/15/2018</b> 74:16	180:19 239:5	<b>171</b> 201:13,15,23
<b>006</b> 81:13	<b>10/15/2019</b> 74:15	253:5,6 262:2,5	202:11
<b>007</b> 81:13	<b>100</b> 36:18,18	<b>12.4</b> 77:2	<b>172</b> 202:4,12,13
<b>017-3</b> 207:11	110:18 161:22	<b>120</b> 53:2	202:14
<b>034</b> 52:21	175:19 176:9	<b>123</b> 83:24 84:11	<b>17th</b> 56:18 57:4
<b>1</b>	177:4,13 183:2	88:24 121:14	96:22 252:21
<b>1</b> 4:21 59:5,18,19 62:12 140:21 152:20 155:1 203:25 229:9,12 230:3	219:25 220:1,7 261:16,19 267:21	265:6	<b>18</b> 104:14 143:18 156:8 215:22,25
<b>1,200,000,000</b> 58:21	<b>10005</b> 9:13	<b>123.2</b> 114:4	<b>18-23538</b> 1:3
<b>1,408,000,000</b> 267:23	<b>10006</b> 8:6	<b>123.8</b> 50:7 53:24 264:25	<b>18th</b> 15:1 31:13 31:20 83:3 220:13
<b>1,657,000,000</b> 252:17 267:25 268:4	<b>10017</b> 10:3	<b>123.8.</b> 83:11	<b>19</b> 104:14 242:19
<b>1,679,000,000</b> 266:7 267:2,5 268:3	<b>10018</b> 9:5	<b>124</b> 176:4	<b>19.1</b> 94:10
<b>1.3</b> 178:22 179:1	<b>10036</b> 9:21	<b>125</b> 53:3 126:20 126:21 127:1,14 265:20 266:1,5,23	<b>1927</b> 88:22
<b>1.314</b> 94:22 96:3	<b>101</b> 268:4	<b>128</b> 83:9	<b>19th</b> 31:17
<b>1.375</b> 95:3,23,25	<b>10153</b> 8:15	<b>13</b> 81:16 118:4	<b>1:30</b> 137:21
<b>1.4</b> 68:12 87:15 196:21	<b>104</b> 113:25 114:1	<b>135</b> 175:18	<b>11</b> 19:20 49:12 50:6,19 54:9,15 54:19,20 55:12 60:3,5 80:23,24 81:16,20 83:9,12 83:20 84:18 86:19 87:22,23 88:10,19 95:10 119:21 120:2,3 122:4 127:5 255:23
<b>1.408</b> 53:15	<b>10601</b> 1:14	<b>138</b> 94:9	<b>2</b>
<b>1.45</b> 215:12 228:4 269:3	<b>10:24</b> 1:17	<b>13th</b> 77:9 230:7	<b>2</b> 5:1 157:9 161:1 202:5,8,11 251:16 253:10,13 260:3
<b>1.451</b> 132:18 182:15 254:11	<b>10th</b> 159:10 220:4 221:16	<b>14</b> 34:8,15,19 81:17 179:8 247:18	<b>2,000</b> 223:11
<b>1.531</b> 84:7	<b>11</b> 6:11,13,14 7:4 7:6,7,15,16,17 39:19 41:6,8 65:7 133:15 134:4,21 168:18 184:6 192:23 199:23 200:11 202:23 211:15 215:22 216:2 262:5	<b>14.5</b> 79:25 82:13 82:17	<b>2,287,000,000</b> 78:8
<b>1.7</b> 180:3	<b>110</b> 112:13	<b>14.51</b> 192:7	<b>2,334,000,000</b> 95:19
<b>1.71</b> 101:3	<b>111</b> 77:8	<b>144</b> 186:8,14,18 187:8,14,21 188:2 188:3,9	<b>2,690,000,000</b> 107:1
<b>10</b> 35:5,11,12,12 70:21,21 101:3,4 133:21 169:9 183:3 211:1	<b>112</b> 52:23	<b>15</b> 23:25 25:13,21 25:22 41:5,16 44:10 59:5 68:24 84:7 113:24 223:23 256:18	
	<b>115</b> 61:18	<b>150</b> 68:7 267:22	
	<b>115.5</b> 60:17	<b>158</b> 102:19	
	<b>11501</b> 274:23	<b>15th</b> 140:20 154:23 222:16	
	<b>116</b> 82:10		
	<b>116.2</b> 79:20 80:16 82:6,18		

<p><b>2.073</b> 32:13  <b>2.074</b> 33:12 74:11  <b>2.088</b> 34:5  <b>2.1</b> 81:17 120:10  167:18 168:5,6,8  <b>2.196</b> 116:11  118:9,14  <b>2.287</b> 90:18 91:4  255:1,6,8  <b>2.287.</b> 118:9  <b>2.319</b> 116:8  <b>2.334</b> 114:5 127:1  <b>2.391</b> 39:5 90:20  115:21 116:1  255:6,9  <b>2.457</b> 114:2,3  121:20 126:21,25  <b>2.497</b> 74:10  <b>2.664</b> 45:4  <b>2.664.</b> 45:5  <b>2.69</b> 39:5 77:9,19  89:17,21  <b>2.691</b> 77:12,20  161:10 162:25  <b>2.7</b> 112:13  <b>2.74</b> 131:22  228:19  <b>2.746</b> 160:24  <b>2.76</b> 160:18  <b>2.88</b> 223:9 224:7  229:5,14,16  <b>2.928</b> 44:23 48:10  <b>20</b> 70:23,24 72:12  100:17 102:8,10  123:3 218:8,12  219:23 220:5  231:4  <b>200</b> 8:22 47:17  207:1  <b>2010</b> 224:9  <b>2015</b> 131:21,23  <b>2016</b> 93:16</p>	<p><b>2017</b> 101:3  <b>2018</b> 41:5,16 71:4  76:18 84:7 87:6  101:5,12 103:7  118:4 131:25  134:16,18 154:23  203:23 204:2,6  207:4 253:19  257:23 270:4  <b>2019</b> 1:16 2:2  31:14,20 40:7,13  40:18,24 41:6,8  56:7 76:18 83:3  96:22,22 101:6,12  103:7 122:13  125:23 133:1  134:16 147:12  155:1,2 156:7,7,8  167:3 214:3 218:7  222:16 223:23  224:6 251:16  252:20 253:19  260:3 270:5  274:25  <b>206</b> 121:19  <b>206.5</b> 121:24  <b>208.1</b> 94:18 96:8  <b>209.6</b> 47:20 48:16  59:21  <b>20th</b> 10:2  <b>21</b> 53:11 136:22  <b>210</b> 59:21  <b>213</b> 82:16 83:1  269:1  <b>213.4</b> 139:12  150:7  <b>23</b> 1:16 2:2 31:2  201:15,23  <b>230</b> 86:14  <b>232</b> 261:13  <b>239.1.</b> 90:14  <b>248</b> 1:13</p>	<p><b>25</b> 188:11,15,17  274:25  <b>250</b> 145:4  <b>254</b> 227:5  <b>26</b> 231:7  <b>26.5</b> 71:9  <b>262</b> 99:1 200:8  <b>269.1</b> 90:14  <b>26th</b> 156:7 218:7  219:24 227:13  <b>27</b> 72:13 155:2,2  <b>27.4</b> 71:7  <b>271</b> 49:21 53:8  83:23,24 84:6,11  86:15,18 88:24  175:18,21 176:9  176:14,23 177:12  177:19 178:1  261:13,18 264:17  264:21 265:8,11  265:23 266:6,10  266:15,24 268:11  <b>272</b> 6:25  <b>273</b> 227:4  <b>27th</b> 18:10 155:9  156:7 159:9 210:9  215:24  <b>28</b> 9:12 96:16  171:17  <b>28th</b> 56:6,24 71:4  96:17 203:22  204:2,4  <b>29</b> 70:21 76:20  100:3 110:4,9  168:8,11 256:18  <b>295</b> 10:2 183:4  <b>295.3</b> 187:13  188:4 228:3  <b>29th</b> 39:19  <b>2:30</b> 137:22  <b>2a</b> 74:14  <b>2b</b> 74:14</p>	<p><b>21</b> 41:7 45:13 46:6  48:17 59:22 66:5  80:4,8,10,16,23  80:25 81:17,24  82:11 88:2,2  105:13 119:8,8,21  120:9 132:25  154:1 205:16  215:18 247:20  254:7 270:15  <b>21's</b> 11:11  <b>2letters</b> 55:12  83:19 84:13,18  85:1  <b>2nd</b> 247:12  252:20 253:19  270:5</p> <hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>3</b> 38:25,25 39:2,12  72:23,25 74:12  76:12 86:2,4,5  161:8 207:11  <b>3,011,000,000</b>  78:8  <b>3,279,000,000</b>  81:8 95:18  <b>3.011</b> 76:12 77:1,7  77:12,20,23  <b>3.1</b> 54:1,4,4 81:15  100:20 103:12,22  103:24 104:12,13  239:16 261:17  <b>3.1.</b> 167:20,21  <b>3.91</b> 91:4  <b>30</b> 32:3,4,6,7  33:20 41:25 42:1  42:24 62:7,11,13  62:23,23 63:1,2  70:7 123:3 231:4  256:18  <b>300</b> 1:13 8:22  23:24,24 38:16  39:17 65:22 90:13</p>
---	---	---	--

162:3,8,11,13 274:22 <b>3012</b> 2:21 3:6,15 3:23 4:8,16,24 5:13,21 6:4,22 7:14 23:18 135:25 141:19 <b>31</b> 32:12,15,17 43:7 62:7,11,14 67:11 70:9 183:3 <b>3198</b> 222:22 <b>32</b> 220:13 221:20 222:12 224:16,17 <b>320</b> 77:16 <b>33</b> 221:25 222:12 224:17 <b>330</b> 274:21 <b>34</b> 52:17,20 53:2 54:24 55:2,12 60:5 87:10 88:18 88:19 95:10 106:7 192:3,25 194:25 255:23 256:5 <b>35</b> 35:23 36:2,10 39:2,3 <b>350</b> 78:14 94:24 <b>36</b> 39:10 <b>365</b> 101:7 <b>37.7</b> 71:8 <b>375</b> 44:16,18 59:10,18 <b>39</b> 147:20,23 <b>395</b> 49:4,8 50:17 60:2 84:11,14 88:23 95:7 123:7 127:7 255:19 264:14	204:1 207:8 222:22 223:8,24 223:25 229:6,16 <b>4,000</b> 65:4 <b>4,272</b> 4:10 <b>4.4</b> 48:24 85:14 86:10 101:7 261:3 261:6 <b>4/27</b> 147:12 <b>400</b> 112:8,8 <b>400,000</b> 222:3 <b>403</b> 184:8,14 185:19,22 186:15 186:17 187:1 <b>4034</b> 2:16,24 3:8 3:18 4:1 <b>408</b> 176:7 240:2 240:18,20 241:24 242:2,4 244:4,10 244:15,16,16,22 244:22 245:5,12 245:18 248:22,22 248:24 250:19 259:17 266:5 <b>411</b> 244:7 <b>414.5</b> 184:4,8 185:2 <b>42</b> 52:23 53:2 184:1,1 <b>425</b> 99:3 <b>4272</b> 2:9 <b>4273</b> 4:18 <b>4274</b> 5:3 <b>4276</b> 5:5 <b>4278</b> 5:8 <b>4279</b> 6:15 7:8 <b>4280</b> 7:18 <b>429</b> 55:15 95:13 127:5,11,14 <b>4313</b> 5:15 <b>433</b> 175:10 176:2 265:17 266:1,4,22 267:20	<b>4381</b> 2:24 3:18 4:1 <b>4385</b> 3:18 <b>44</b> 188:16 <b>4439</b> 2:9 5:23 <b>4440</b> 6:6 <b>4445</b> 6:16 <b>450</b> 102:25 103:1 <b>451</b> 185:20,22 187:3 227:14 <b>4538</b> 4:2 <b>4564</b> 2:12 <b>4565</b> 2:3 3:9 <b>4569</b> 62:7,7,21 <b>4570</b> 6:25 35:7 62:10,18 <b>4586</b> 7:9 <b>4587</b> 7:19 <b>470</b> 102:6 <b>49</b> 141:17 151:11 151:12,12 <b>492</b> 127:24 <b>5</b> <b>5</b> 25:13 29:9 38:25 100:19,21 101:9 <b>5.2</b> 50:17 84:15 123:7 <b>5.2.</b> 261:8 <b>5.5</b> 101:6 <b>50</b> 151:3 <b>501</b> 86:14 269:3 <b>503</b> 6:12 7:4 <b>506</b> 2:20,24 3:4,8 3:13,17,22 4:1,7 4:10,15,18,23 5:1 5:12,15,20,23 6:3 6:6,15,21,24 7:8 7:15,18 21:6 30:9 31:11 55:18 91:22 91:24 92:7,9,18 93:3,24 94:3,5,6 94:13 96:8,10 97:8 102:14 107:20,24 108:6	108:14,22 109:12 123:20,21,22,23 124:5,7 126:15 135:11,13 137:9 137:12 139:23 146:15,16 153:23 179:17,20,24 180:6 184:19 192:14,16 193:11 193:15 215:12 216:6,25 218:8,18 220:19 224:19 226:19 227:13 254:7 256:5,14,15 263:6,25 269:6 271:22 <b>507</b> 2:3,14,20,22 3:4,7,14,17,23 4:1 4:7,15,23 5:12,20 6:3,13,21 7:6,16 14:16,22 21:5 28:9 31:2,7 47:24 48:4 55:10 58:10 58:12,16 60:16 75:13 76:3 82:4 89:23 94:17,20,22 105:6 115:15 121:16 126:18 127:23 132:3 135:11 136:2,20 136:25 137:10,10 137:18 138:13 139:4,16,18 140:11,13,23,25 141:20 142:7 143:3 144:11 145:4,7 146:24 147:24 148:18 150:12,20 153:25 192:13,15 193:15 194:18 195:1,20 205:18 227:13 246:5,12,16 249:3
<b>4</b> 6:25 22:16 34:3 34:11 36:13,22 38:1 39:9 85:12 85:13,25 86:3,5 112:12 116:20,21			

254:25 256:5,10 256:13 <b>51</b> 53:12 94:9 139:22 151:11 221:18 222:13 226:1 263:24 264:8 269:5 <b>51.6</b> 206:8,11 <b>52</b> 54:3 87:18 <b>53</b> 137:1 141:4 143:21 <b>54</b> 137:1 <b>54.8</b> 47:2,9 79:11 82:21 <b>550</b> 127:15 <b>590</b> 68:7 <b>595</b> 48:12,20 <b>5:42</b> 273:17 <b>5th</b> 210:2	218:12 238:20,20 252:3,8 258:16,17 261:22 <b>7.1</b> 88:21 <b>7/20</b> 147:12 <b>700</b> 65:5 67:13,17 130:6 <b>71</b> 32:6,7,15,17 35:24 36:2,9 42:1 42:6,24 62:7,8,11 62:11,13,14,20,23 62:23 63:1,2 67:12 70:7,9,21 148:5 186:5 188:16 196:7 <b>72.8</b> 80:1 82:14,17 <b>725</b> 78:1,4,12 <b>734</b> 68:7 <b>75201</b> 8:23 <b>767</b> 8:14	99:7,18,19 106:25 107:6,12,15 108:4 110:18 161:13,21 163:6,8,18 164:21 164:22 168:14 169:6 170:2 175:3 175:10 176:2 177:11 205:22,25 235:9 242:23,23 247:10 252:5 253:13 267:18 268:2 270:14 271:10 <b>850</b> 176:5 265:4,6 265:9,13,15 266:1 266:4,21 267:20 <b>88.7</b> 97:18 115:8 115:10 116:4,22 124:3 125:6 203:21 254:23 255:7,12 <b>89.1</b> 122:16,24 230:21	<b>90.3</b> 208:4 <b>91</b> 192:8 <b>92</b> 118:6 <b>93</b> 125:10,12 131:3 <b>93.7</b> 207:5,21 208:10,12 <b>93.8</b> 208:4 <b>94</b> 74:11 192:8,18 192:21 194:7 <b>945</b> 95:16 <b>95</b> 64:22 91:5 255:11,11,12 <b>95.6</b> 43:1,4 45:3 48:24 72:3 196:12 197:13 <b>96</b> 91:2 99:7 107:12 <b>96.4</b> 89:6 196:17 <b>962.7</b> 58:13 60:9 <b>99</b> 243:1
<b>6</b>	<b>8</b>	<b>9</b>	<b>a</b>
<b>6</b> 36:19 71:5 81:18 119:20,21 143:13 143:14 160:15 204:6,8,11 205:3 <b>60</b> 58:19 60:9 96:5 127:24 <b>600</b> 101:5 215:6 <b>61</b> 136:22 <b>617</b> 48:25 <b>62</b> 114:2 <b>620</b> 9:4 <b>64.2</b> 47:9 <b>64.3</b> 82:21 <b>65</b> 186:5 196:7 <b>657</b> 267:17 <b>66</b> 137:7 179:25 180:3 <b>687</b> 200:5 <b>690.8.</b> 161:1	<b>8</b> 26:9 50:23 51:3 74:6 85:7,10 86:25 143:13 228:11 232:1 233:3,4 236:15,19 238:20,20 245:17 246:21 250:14,18 251:4,8,11,20 252:3,10,21 253:23 254:5 257:4 258:20 261:23 270:6 <b>800</b> 130:6 <b>816</b> 77:23 <b>82</b> 242:24 253:14 <b>820</b> 95:1 <b>83</b> 74:7 <b>84.9</b> 268:1 <b>85</b> 23:22 27:25 43:14,20,21 44:10 49:1 59:4 89:4,9 89:10,16 90:2,3,7	<b>9</b> 26:9 49:13 50:23 51:24 87:4,5 171:18 211:1 212:20 213:14 232:1 233:4 236:15,18 250:15 250:17,18 251:4,9 251:10 257:4,20 257:22 270:6 <b>9.1</b> 122:12 200:16 <b>9.4</b> 47:10,13 <b>9.5</b> 79:17 82:12 <b>9.5.</b> 82:19,20 <b>90</b> 125:10,12 131:3,13,15 181:8 208:9 214:4,7 <b>90.2</b> 207:5,21 208:9,12	<b>abacus</b> 42:21 129:9 130:2,3,4 130:12,15,24 131:8 187:19 206:14,14,17,20 206:23 207:1,4,16 207:19 208:20 210:5,13,19 231:17 <b>abacus'</b> 208:23 <b>abandoned</b> 210:16 <b>abersold</b> 14:21 <b>ability</b> 39:7 143:3 <b>abl</b> 50:8 53:18,23 176:4,12 178:1,23 179:3,18 193:21 193:22 203:6,7,11 203:14 204:25 205:6 239:11,14 262:10 265:1,5
<b>7</b>			
<b>7</b> 81:16 119:20,21 161:9 211:18,21 211:25 213:4,24			

266:17,21 267:20 <b>able</b> 108:21 111:14 125:24 142:19 152:8 193:21 213:2 240:5 <b>absent</b> 193:20 <b>absolutely</b> 26:19 30:14 35:11 85:25 232:16 250:24 <b>accept</b> 19:14 21:25 55:15,17 59:4 82:24,25 122:25 127:21 242:7 247:14 <b>accepted</b> 24:11 65:15,17 210:10 249:20 <b>accidents</b> 231:6 <b>accommodating</b> 272:14 <b>account</b> 35:21 37:7 38:4 54:13 66:4,13 70:14 124:4,6 136:3 137:14,16 139:10 140:15,24 141:2 142:5,15,18,20 143:2,6,7,12,14 143:15,23 144:1,2 144:7,11,13,20 145:15,16 148:13 148:16 149:6,16 149:17,19,21 150:5,20 151:2,6 151:8,10 152:9,13 184:21 197:8 214:10,14,21 216:8 263:8,13,20 263:22 264:2,3,9 264:12 <b>accountants</b> 65:16	<b>accounted</b> 67:4,5 175:21 176:16,18 <b>accounting</b> 37:23 65:17 66:12,18,23 66:23,24 67:1,8 172:20 <b>accounts</b> 38:11 45:15 68:24 142:25 190:12 217:12 <b>accrual</b> 106:8 <b>accrue</b> 106:13 <b>accuracy</b> 42:18 75:23 181:13 <b>accurate</b> 42:19 197:7 228:19 274:4 <b>accurately</b> 269:23 <b>achieve</b> 72:14 <b>achieved</b> 71:9 198:22 <b>achieving</b> 35:15 <b>acquired</b> 168:7,8 168:9,11,12,12,13 <b>act</b> 93:17 <b>actual</b> 14:23 18:12 22:8 24:10 25:4 52:12 58:18 64:12 89:6 99:6 104:2 117:17 133:8,9 165:5 173:19 174:4 180:8 184:9,22 195:2 212:9 <b>actualize</b> 178:12 <b>actuals</b> 197:23 <b>ada</b> 166:7 <b>add</b> 46:22 47:13 55:15 112:6 175:10,17,18 176:2,9 252:15 <b>added</b> 45:6 47:15 78:16 82:5,10,17	116:9 118:19 152:5 250:4 <b>adding</b> 61:17 115:7 242:16 266:17 <b>addition</b> 84:6 130:12,15 152:3 212:24 266:4 <b>additional</b> 152:4 186:9 225:12 234:15 235:11 243:25 261:11 265:23 266:6,25 <b>address</b> 47:12 137:13,23 166:12 170:17 <b>addressed</b> 137:8 <b>addressing</b> 6:19 <b>adds</b> 47:17 60:8 82:16 182:15,17 266:16 <b>adequate</b> 137:2 139:9,19 142:6,23 143:8 144:6 145:7 147:25 148:1,4 149:1,5 150:19 151:10,20 152:10 152:14 178:20 194:6,8,12,17 195:20 262:13,17 <b>adjust</b> 43:11 <b>adjusted</b> 44:10 45:2 215:2,9 <b>adjustment</b> 43:8 44:9 48:18,22,23 48:24,25 59:1,5,6 59:19 162:3 <b>adjustments</b> 139:20 215:5 <b>administrative</b> 2:20 3:5 4:7,15,24 5:13,21 6:3,11,12 6:22 7:1,4,5	143:19 246:18 <b>admissibility</b> 17:11 <b>admissible</b> 166:15 172:6 241:25 243:11 <b>admission</b> 172:8 <b>admissions</b> 166:16 <b>admit</b> 28:5 250:13 254:4 <b>admitted</b> 24:22 26:16,16 236:24 237:1 243:3 251:9 254:5 <b>admitting</b> 235:6 <b>adopted</b> 63:21 180:19 <b>advance</b> 158:25 203:1 <b>advanced</b> 11:23 <b>advertising</b> 36:7 68:2 185:11 186:21 <b>advice</b> 46:2 258:7 <b>advisor</b> 187:19 206:17 <b>advisors</b> 93:17 203:11 204:25 205:7 233:16 253:18 <b>advisory</b> 210:5 <b>advocating</b> 243:8 <b>aebersold</b> 154:3 154:16,17,20,21 155:11,15 <b>affairs</b> 119:5 <b>affect</b> 114:10,10 <b>affidavit</b> 181:16 191:8 <b>affiliated</b> 117:2 <b>affirm</b> 28:18 73:8 113:10 154:14
--	--	---	---

155:23 <b>afternoon</b> 97:6 98:13 114:20,21 138:23 156:21 198:3,4 216:23 272:18 <b>agent</b> 6:10 7:3,13 9:3 12:18 129:15 222:20 <b>agents</b> 170:25 <b>aggregate</b> 61:13 66:13 81:6 84:11 103:22 105:2,17 105:18 151:13 167:23 168:2,3,6 168:25 196:12,16 <b>ago</b> 35:25 130:2 153:17 228:8 249:16 262:23 <b>agree</b> 34:18 48:15 48:20,23 49:1,10 55:19 56:1 57:12 77:1,6,7 82:5 84:13 91:7,10,23 92:4 119:24 120:2 121:18,22 126:25 127:2 144:17 146:11 162:5 164:16,18 170:11 170:14,14 172:5 178:1 198:13 200:1,7,10 203:3 204:4 206:20 207:4 208:18 215:17 <b>agreed</b> 25:1 26:20 27:1 135:16 157:11 159:13,19 <b>agreement</b> 26:6 27:17 40:8 45:15 45:16 46:11,21 52:9 81:16,17,20 81:25 120:3,9	123:8,10 146:4,13 150:16,21,25 157:3,11 158:15 165:9 169:13,13 169:16,20,23 170:1,1,15,19,20 173:1 248:18 261:18 <b>agreements</b> 46:9 80:24 81:2 119:22 144:10 236:1 <b>ah</b> 39:14 <b>aha</b> 62:22 <b>ahead</b> 28:9 30:12 44:22 61:21 74:20 113:3 114:16 145:20 148:8 150:8 156:13 175:8,14 176:14 193:8 264:3,9,22 265:12 266:15,18 266:25 267:7 271:9 <b>airport</b> 273:5 <b>akin</b> 9:18 221:18 242:15 <b>al</b> 11:7 138:22 171:17 <b>albeit</b> 99:2 <b>alix</b> 10:8 <b>allege</b> 215:13 <b>allocable</b> 92:9 <b>allocate</b> 170:15 174:8 <b>allocated</b> 67:6 <b>allocates</b> 171:16 <b>allocation</b> 92:4,11 93:5 94:7 103:19 104:11 105:2,3 111:19 168:20 173:20,23 187:18 197:9,11 214:23	<b>allocations</b> 171:22 187:17 216:7,12 <b>allow</b> 154:5 180:11 <b>allowance</b> 7:6 <b>allowances</b> 69:7 <b>allowed</b> 149:20 164:18,19 213:12 <b>allowing</b> 6:13 <b>allows</b> 73:25 149:21 <b>alluded</b> 65:23 <b>alluding</b> 250:2 <b>alternative</b> 23:15 116:14 254:11 <b>alternatively</b> 24:4 <b>amazing</b> 140:3 <b>ambiguity</b> 167:4 <b>ambiguous</b> 165:24 174:11 <b>amended</b> 29:21 31:20 83:17,24 183:24 <b>america</b> 213:17 <b>amount</b> 2:19,22 3:3,6 4:6,14,22 5:11,19 6:2,20 7:14,15 44:14 47:6 50:8,10 53:7 79:7 84:14 101:13 106:18 115:8 116:9 119:13 122:14 123:14 147:22 152:1,1,2 152:4 162:7 168:21,25 180:10 192:17,19 193:9 215:13 216:12 226:6 242:1,23 256:14 266:16 267:14,24 <b>amounts</b> 50:11,11 107:23 137:11	209:7 218:9,17 219:5,10,14,15,23 220:9 265:25 <b>analyses</b> 170:25 203:3 254:10 <b>analysis</b> 16:13 18:1,19 19:3,4,5,6 19:7,15 21:18 22:16 31:7,11,23 35:15 40:10,11,16 40:20 41:7,14 42:11 50:9 53:22 56:5 60:24 61:4,9 66:17 68:11 69:21 74:16 80:19 84:21 88:1,8 90:23 93:25 94:3 96:20 103:25 105:22 109:14 111:25 115:2,4,23 117:6 117:8 119:9,12,17 121:13 123:21,24 126:12 129:12 130:13,16 131:14 131:17 133:5,8,19 136:7,7,8,21 137:10,12,18 139:5,15,23 140:25 162:4 163:1 175:2 179:8 180:12 183:21 191:14 192:18 193:12 197:16 201:1 202:15 204:13 205:18,22 209:18 213:8 214:3,8,13,15,18 214:19,24 215:6 215:10,11 216:11 218:16,19 220:5 231:20 254:6,20 255:4 256:5,9
--	--	--	--

[analyst - approximately]

Page 7

<b>analyst</b> 128:15	84:15,20 85:2,3	<b>applications</b>	<b>approach</b> 13:19
<b>analysts</b> 128:18	87:9,21 123:12	220:21 263:21	20:21 33:18,22
<b>analytical</b> 173:6	143:14 163:9,14	264:11	34:22 42:2 44:7,7
<b>analyzed</b> 107:20	163:15 164:19	<b>applied</b> 18:19	63:14,15 74:23
<b>ancillary</b> 112:7	165:2,5,19 166:9	33:16 34:2 42:2	81:6 114:22
<b>andrew</b> 8:9 10:24	166:24,25 171:3,4	43:1,13,19 88:22	146:22,25 155:19
11:16	171:25 173:14,19	88:25 89:9 100:2	156:15 196:2
<b>annual</b> 123:15	173:24 174:8,10	100:11,14,19	198:2 216:5,14,15
<b>annualized</b>	174:11,11,13	104:13 105:21	223:20 245:23
102:22	175:3,11,15,22	106:9 115:10	247:17 269:8
<b>answer</b> 24:20	176:17,19,20	116:4,8 117:24	<b>approaches</b> 33:15
36:23,24 37:2,3,5	227:1,1,2 235:10	118:1 161:13	44:5
37:9,11,12,13,15	239:16 247:4,4	254:23 255:7	<b>appropriate</b>
37:17,19,21 38:13	252:16,21 261:20	256:11	21:12 23:7 34:23
70:18 80:20 84:3	267:3	<b>applies</b> 31:23	112:6 128:4 129:5
84:22,24 88:14,15	<b>apart</b> 243:9	89:16 90:2,3	129:11 148:17
90:22,25 142:1	<b>apl</b> 266:11	106:25	149:7 179:24
146:21 181:18,21	<b>apologize</b> 70:22	<b>apply</b> 20:14,14	180:7 190:24
191:12 195:25	78:9 86:6 89:19	90:7 96:8,10	198:18 214:8
202:4,5,9 212:11	104:14	192:14 193:13	235:1 241:11
216:16 234:12	<b>apparently</b> 235:7	248:22 250:15	242:3 245:11
267:4,12 270:22	<b>appeal</b> 19:11	<b>applying</b> 22:13	<b>appropriately</b>
271:8	<b>appear</b> 16:12	76:20 112:5 115:7	129:16 139:21
<b>answered</b> 46:17	186:24 245:7	115:8 129:20	150:6
106:23 177:5	<b>appeared</b> 110:10	<b>appraisal</b> 15:24	<b>appropriateness</b>
236:3	245:22	21:19 71:3 75:20	117:8
<b>answers</b> 167:12	<b>appearing</b> 19:10	75:24 76:1 103:18	<b>approve</b> 195:8
190:7 253:1	<b>appears</b> 28:24	103:19 116:24	244:24
<b>answer's</b> 80:18	63:1 136:22	117:2,13,21	<b>approved</b> 263:18
90:24	186:23 224:10	124:22,25 128:12	263:21 264:11
<b>anticipated</b>	229:21	133:13,18,19,22	<b>approximate</b> 99:7
194:13	<b>appendix</b> 71:11	203:22 204:1,5,8	<b>approximately</b>
<b>anymore</b> 117:15	185:20 186:2	209:4 216:9	44:18 45:4 48:12
194:10	188:11,11,17	<b>appraisals</b> 15:25	49:4,8 65:2 68:7
<b>anyway</b> 144:3	<b>apples</b> 118:12,12	18:7 42:12,18	74:10 78:1 82:16
153:23 247:1	126:24,24 132:6,6	75:18 124:9	91:2 102:6,19
<b>anyways</b> 22:23	132:9,9,13,13	129:18 202:16	107:12 112:8
<b>apa</b> 23:21 24:3,12	180:13,13 243:22	203:7 231:15,18	118:6 121:19
24:14 27:8,9,10	243:22,23	<b>appraised</b> 117:12	131:3 162:10
27:11,16,21,25	<b>applicable</b> 92:12	117:14,17	176:5 183:2 200:4
28:1 50:14 52:12	220:17	<b>appreciate</b> 196:20	200:6,8 223:9
52:13,18,24 53:11	<b>application</b> 89:4	249:23	224:7 269:1
53:12 54:1 56:18	266:24		

[april - auto]

Page 8

<b>april</b> 15:1,1 17:16 140:20 222:16 223:23 224:5 229:2,17	84:5 97:14 98:15 105:9 106:7 107:19 110:8 128:11 132:2,4 139:1 141:10 147:8 177:5 187:5 187:6 193:18 201:15,22 202:2,9 218:1 225:21 227:12 228:11,14 230:1,16 231:22 232:13 255:22 263:5 264:7 269:14	140:8,11,16 143:23 144:21 145:2 148:21 149:7 167:3,17 168:4,7,8,9,21,22 168:22,25 169:4 170:21 176:2 177:7 179:16 215:19 247:22	<b>assumption</b> 20:17 23:20 34:22 61:4 61:15 99:9,24 105:24 106:13 107:19 110:24 119:10,15 133:14 258:18,21,22
<b>arbiting</b> 273:2			<b>assumptions</b> 12:3 16:6,9 19:19 21:23 27:19 63:19 103:4 107:21 112:15 118:2 259:1 261:24
<b>area</b> 20:5 212:23			<b>attached</b> 25:5 29:15 171:16 181:17 191:10 192:16 229:9 230:3 232:2 233:4 233:7 251:14 257:10,13
<b>aren't</b> 213:14 239:16			<b>attaches</b> 73:19 <b>attaching</b> 238:20 <b>attack</b> 142:9 <b>attempted</b> 212:7 212:12
<b>argue</b> 26:23,24 139:18 140:10 148:20 151:9 166:6 211:3 241:6 241:7,20			<b>attempting</b> 212:22 246:1 <b>attend</b> 249:7 <b>attended</b> 210:3 <b>attention</b> 66:16 70:22 213:24 <b>attorneys</b> 8:4,13 8:21 9:2,11,19 <b>attribute</b> 112:4 <b>attributing</b> 111:9 <b>auction</b> 93:4 <b>audio</b> 139:25 <b>august</b> 140:21 <b>authority</b> 198:17 199:1 <b>auto</b> 188:12,19,20 231:6
<b>arguing</b> 140:13 245:19	<b>asking</b> 37:1,21 40:20 101:23 109:3 118:13 159:5 160:22 186:14 188:16 191:23 194:19 201:24 202:1 221:11,12 257:4	<b>assist</b> 130:8 <b>assistance</b> 220:19 <b>assisted</b> 130:6 <b>associated</b> 37:8 38:4,11 54:15 94:11 123:16 159:16 175:3 214:9 217:8 231:21 252:7,12 <b>association</b> 2:12 6:10 7:2,12 9:2 12:18 128:17 222:19 <b>associations</b> 2:7 <b>assume</b> 88:23 105:23 107:5 120:17 135:13 178:14 205:4 214:21 218:17 228:24 258:16 <b>assumed</b> 54:2 60:25 84:19 99:18 100:7 108:4 123:9 125:19 131:13,15 177:13,21 178:12 178:13,14 192:3 258:21 261:11,25 <b>assumes</b> 181:7 253:13,14 259:23 <b>assuming</b> 28:8 110:22 128:3 163:22 180:6 195:4 272:25	
<b>argument</b> 15:3 20:2 23:11 27:8 27:13,24 28:4 145:10,18 153:25 167:6,7,8,10,11 167:12 172:20 174:6 175:6,7 194:22 243:15,15 245:10 247:5 272:2,4,5	<b>asks</b> 229:5 <b>aspect</b> 52:2 53:25 <b>aspects</b> 129:12 213:7 <b>asserted</b> 107:23 246:18 <b>asserting</b> 109:16 <b>assessed</b> 115:11 173:17 <b>assessment</b> 17:23 17:25 <b>assessments</b> 17:21 <b>asset</b> 40:8 45:15 52:9 60:20 123:8 123:10 141:7,8 148:2 170:9 172:21 177:14,15 <b>assets</b> 61:16 117:12,14,14,17 120:20 129:7 133:5 139:16,19		
<b>arguments</b> 17:21 166:20 241:16 243:2,11 247:2			
<b>argument's</b> 243:16			
<b>arrive</b> 95:22			
<b>arrived</b> 36:25 76:12 95:3			
<b>arriving</b> 75:18			
<b>articulately</b> 150:3			
<b>ascribe</b> 94:12			
<b>aside</b> 107:25 144:15 161:22 163:1 165:4 221:21 243:2			
<b>asked</b> 46:16 52:4 58:5,5 61:23 62:14,25 63:3,11			

[available - belief]

Page 9

<p><b>available</b> 50:8 69:2,13 139:16,17 140:9,18,22 141:1 145:2 152:15,24 186:10 223:10 224:7 273:7 <b>avenue</b> 8:14 9:4 10:2 <b>aware</b> 17:10 49:21,24 50:6 77:3 84:17,17 85:1 93:16 97:18 106:4 120:15,22 121:6 123:6,9,15 123:18 133:18 157:3,7,11,16,17 196:15 199:22 210:21 211:24 237:21 254:6 263:7</p>	<p>185:23,25 186:2 187:16 192:13,15 193:15 194:18 195:1 196:6 205:18 227:13 233:8 246:5,12,16 249:3 251:16 254:25 256:5,13 <b>back</b> 24:5 30:10 40:19 42:10 49:18 50:23 55:10 57:6 58:9 75:8,9 82:4,7 84:6 89:23 90:9 104:9 126:18 137:22 138:21 146:3 151:2,3,8 160:3 171:14 182:8 188:10 224:21,23 225:1 245:7 249:9 266:20 <b>backed</b> 157:20 <b>backup</b> 25:4 41:20 108:16 109:16 157:12 158:3,7 159:15,16 159:17,19,21,23 159:23 191:11 227:8,21,24 228:3 <b>balance</b> 114:4 <b>ballpark</b> 179:25 180:2 <b>bank</b> 49:20 150:14 <b>bankruptcy</b> 1:1 1:12,23 4:8,16,24 5:13,21 6:4,22 7:14 36:5 64:16 64:18,21,24 65:3 65:5 71:10 92:12 92:21 130:7,9 179:17 181:3 199:11 213:2</p>	<p>214:10 245:3 <b>banks</b> 129:15,15 <b>bare</b> 195:4 255:25 <b>bargain</b> 142:11,13 142:24 144:6 145:13 149:2 <b>base</b> 18:15 38:17 38:19,22 39:9,21 46:23 47:1,5,15 65:22,25 77:9,18 79:5,9,10,14,18 82:13,22 89:14 90:8,19 115:7,25 116:5 118:3,24 130:1 162:8,15,19 162:21 176:12 190:11 203:1 228:25 229:9,12 229:13 230:2 266:11 <b>based</b> 14:19 17:13 17:21 19:6 27:9 49:15 64:13,17 71:2 80:3 81:1 84:3,3,4 88:15 101:9 119:9 124:9 124:22 134:12 144:13 162:4 163:8,18 165:3 175:2 193:7 196:22 197:24 198:19,21 211:11 213:1 215:11 224:14,15 230:24 231:4 258:7,18 268:18 <b>bases</b> 48:16,20 199:7,8,13 209:8 <b>basic</b> 23:20 146:13 <b>basically</b> 15:10 16:11 21:17 24:6 24:8,16 27:12</p>	<p>64:20 67:12 143:2 150:19 168:19 169:15 175:6,25 178:22 179:2 262:16 <b>basing</b> 83:25 <b>basis</b> 12:4 15:7,11 16:4,23 17:7 23:15 27:13 29:1 45:12 47:4,21 49:14 51:22,25 54:24 55:2 56:16 88:17 92:7 94:13 100:15 102:22 118:17 159:1 161:17 164:21,22 172:25 195:9 197:19 199:19 205:20 222:1 235:9,18 258:5 263:17 270:18,19 <b>bates</b> 86:5 204:9 207:11 236:13,18 245:17 262:6 <b>bear</b> 35:6 120:13 <b>bearing</b> 247:10 <b>bears</b> 262:6 <b>beg</b> 82:17 104:8,8 <b>beginning</b> 26:21 134:15 142:11 144:5 147:23 243:9 245:5 260:18 261:3 <b>begins</b> 63:2 209:3 258:16 <b>behalf</b> 2:10,15 4:4 4:12 5:2,8,17,25 11:17 12:13,17 13:17 31:13 58:3 97:3 241:25 242:16 270:12 <b>belief</b> 80:3 84:1</p>
<p><b>b</b></p>			
<p><b>b</b> 1:21 2:3,14,20 2:22 3:4,7,14,17 3:23 4:1,7,8,15,23 5:12,20,22 6:3,21 6:23 7:6,16 14:16 14:22 21:5 28:9 31:2,7 47:24 48:4 55:10 58:10,12,16 75:13 76:3 82:4 89:23 94:17,20,22 97:8 105:6 115:15 121:16 126:18 127:23 132:3 136:2,20,25 137:10,10,18 139:4,16,18 140:11,13,23,25 141:20 142:7 143:3 144:11 145:4,7 146:24 147:24 148:18 150:12,20 154:20</p>			

[believe - breakdown]

Page 10

<b>believe</b> 14:18 38:24 41:6 72:22 79:8 80:16 83:11 92:8,10 100:2 102:2 106:7 108:15 123:25 124:3 126:23 154:24 158:6,25 160:8,8 161:1 170:17 175:11 177:16 179:6 183:19 195:17 196:25 197:3,8 201:4,8,17 202:14 216:24 219:16 220:6,11 228:11 228:17,19,22,23 233:9,16 234:17 236:7 240:18 248:14,21 251:16 252:18,22 253:18 259:11 261:1 264:18 266:9,14 267:21 269:1 271:14 <b>believed</b> 262:20 264:21 <b>bench</b> 20:22 146:22,25 156:16 245:23 247:17 <b>benefit</b> 13:1 57:8 57:14 66:15 92:5 92:13 96:15 99:15 241:21,23 264:6 <b>benefitted</b> 66:5 <b>best</b> 12:10 33:8 <b>bet</b> 32:19 82:10 87:12 121:6 <b>better</b> 12:5 22:6 60:15 198:24 247:15 <b>beyond</b> 133:2 218:21 232:13	<b>bid</b> 24:7,8,10 51:18 52:8 56:7 85:14 86:1,7,10 130:9 171:15,15 171:17,18 176:7 210:10 226:25 237:17 238:14 242:7 246:22,22 246:23 247:13,14 249:20 251:15 259:15 261:3,6,7 261:9,9 262:9,12 265:18 266:1,7,22 267:21 <b>bidder</b> 93:4 <b>bidding</b> 171:21 <b>bids</b> 15:25 24:7 180:11 210:13,20 210:22 213:14,15 213:17,19,22 240:3 243:24 <b>big</b> 12:22 51:1,1 59:13 62:17 142:10 226:7 <b>bigger</b> 16:9 <b>billion</b> 32:13 33:12 34:6 39:5,6 44:23 45:4 48:10 50:17 53:15 68:12 72:24,25 74:10,11 76:12,13 77:1,8 77:10,12,12,19,20 77:20,23 84:8,15 85:14 86:10 87:15 89:17,21 90:18,20 91:4,4 94:22 95:3 95:24 96:1 101:3 112:13 114:2,3,5 115:21 116:1,12 121:20 123:7 126:21,25 127:1 131:22 132:18 160:18 161:1	176:7 178:22 182:15 185:19 187:3,8 215:12 223:9 224:7 227:14 228:4 229:5,14,16 244:1 254:11 255:1 261:3,6 266:5 267:17 269:3 <b>binder</b> 156:16 157:9 196:3 198:5 198:9 201:12 203:25 207:8 247:19,19 <b>bit</b> 104:25 147:9 268:17 <b>bite</b> 149:5,6 <b>bits</b> 207:10 <b>black</b> 62:17 <b>blend</b> 101:11 103:7 <b>blended</b> 134:13 <b>bloated</b> 100:24 <b>block</b> 50:7 <b>blue</b> 207:10 <b>bolded</b> 207:24 258:8 <b>bonds</b> 122:17 <b>book</b> 24:1 28:25 32:11,11,12,21 33:12,16,17 34:8 34:16,21 35:7,16 35:17 36:12,21 37:7 38:3,10,16 41:23 42:25 43:8 43:25 44:7,8 47:6 62:3,9,17,17 63:17,19,21,25 64:4,6,10,22 68:21 70:11 75:6 75:7,12,13 76:21 77:18 85:6 87:4,8 89:5,7,14 100:3	100:11 107:6 114:22 115:13 119:20 160:6 161:7,18 162:16 169:6,7,8 178:17 179:8 182:7,10,14 198:14 205:20,25 228:23 250:17 252:7,12 257:8 <b>books</b> 21:17,25 25:2 69:8 190:14 196:23 <b>borrowed</b> 178:22 <b>borrowing</b> 18:15 38:17,19,21 39:9 39:21 46:23 47:1 47:3,5,15 50:8 65:21,24 77:9,18 79:5,9,10,14,17 82:13,21 89:14 90:8,19 115:7,24 116:5 118:3,24 130:1 162:8,15,18 162:21 176:12 190:11 203:1 228:25 229:9,12 229:13 230:2 266:11 <b>bottom</b> 27:25 33:21 70:21 188:17 207:24,25 <b>bound</b> 52:15,19 115:13 119:20 <b>box</b> 32:15 <b>brandon</b> 14:21 154:16 <b>brauner</b> 9:23 <b>breach</b> 158:15 <b>break</b> 113:3 136:11 139:1 268:21,22 <b>breakdown</b> 220:8
--	---	---	---

<b>breaks</b> 188:8 226:22	111:15 123:19 125:17 130:8,11 130:22 157:5 186:21 258:6	<b>calculated</b> 77:3 94:15 106:16 118:7 127:20 192:19 220:18 256:14	217:2 226:1 239:23,24 240:4 244:4 252:25 270:24
<b>brendan</b> 154:3	<b>businesses</b> 69:20 188:15 190:8,15 190:22	<b>calculating</b> 255:23	<b>cap</b> 261:18
<b>brian</b> 2:9 14:20 155:17 156:2,19 216:19 222:17 226:11 234:3 237:15 251:12 257:17 263:3	<b>buy</b> 168:14 195:16,18	<b>calculation</b> 34:24 48:13 54:8,25 55:3 56:14,25 60:16 65:22,25 75:21 76:23 77:13 77:17 78:2,5,21 80:15,20 81:6 88:9,13,17 89:1,2 105:7 115:15 118:8 126:15,22 127:23 192:12 193:7 195:1 196:19,24 197:17 220:17 267:6,12	<b>capacity</b> 179:21 <b>capital</b> 2:5,10 4:20,22 5:2,8,11 9:11 12:13 71:4 97:3
<b>brief</b> 3:1 6:18 14:7 35:5,12 153:16	<b>buyer</b> 163:19 178:13 198:23		<b>capture</b> 126:8
<b>briefing</b> 150:11 169:24 170:12	<b>buyers</b> 40:6		<b>card</b> 45:7 46:22 47:14 59:25 65:14 65:16,18 79:1,4,7 82:12 118:20,23 168:23 217:15 252:13
<b>briefly</b> 70:3 71:22 109:24 159:3	<b>c</b> c 2:15,24 3:8 4:10 4:18 5:1,15,23 6:6 6:24 7:18 8:1 9:25 11:1 28:21 30:9 31:11 54:4 55:18 73:14 91:22,24 92:7,9,18 93:3,24 94:3,5,6,13 96:8 96:10 102:14 107:20,24 108:6 108:14,22 109:12 123:20,21,22,23 124:5,7 126:15 135:13 137:12 139:23 146:15,16 153:23 179:17 180:6 184:19 192:14,16 193:11 193:15 215:12 216:6,25 218:8,18 220:19 224:19 226:19 227:13 254:7 256:5,14,15 263:6,25 269:3,6 271:22 274:1,1		<b>cards</b> 118:19 <b>care</b> 13:13 <b>carries</b> 137:1 <b>cart</b> 141:20 <b>carve</b> 263:8,13 264:2,3,9 268:22 269:21,22
<b>briefs</b> 12:2		<b>calculations</b> 25:11 36:3 47:25 56:17 71:13 96:12,13,21 128:4 150:12 231:15	<b>carved</b> 145:4
<b>brings</b> 147:12		<b>calculator</b> 122:2 127:17	<b>carveout</b> 136:21 137:3,3,19 139:4 139:11,12 142:18 143:2,7,14,23 144:1 145:14,16 146:5,19 148:16 149:6,16,17,18,21 149:25 150:5 151:5,6,7,10,18 151:20,25 152:3,4 152:8,12,13
<b>broaden</b> 29:13 245:9		<b>california</b> 272:22	<b>carveouts</b> 139:11
<b>broken</b> 168:3		<b>call</b> 13:11 28:12 73:6 99:19 113:7 123:22 128:20 154:3,3,5 155:17 176:2 181:16 212:4 215:2 272:21	<b>case</b> 1:3 14:10 19:2 23:16,23 28:3,5,24 29:20 30:2 39:20 40:3 51:22,25 55:20,22 56:21 66:6 69:23
<b>brooklyn</b> 169:14		<b>called</b> 66:23,24 186:1	
<b>brothers</b> 213:16		<b>calling</b> 215:9	
<b>brozman</b> 10:8		<b>calls</b> 90:4,6 102:14 183:5	
<b>bryan</b> 10:21		<b>can't</b> 55:8 103:21 198:17 214:15	
<b>bryant</b> 9:20			
<b>bucyrus</b> 74:6			
<b>build</b> 175:2 192:7 261:16			
<b>built</b> 61:15			
<b>bullet</b> 85:13 86:13 179:13 207:19 208:17 262:10			
<b>bullets</b> 209:1			
<b>bunch</b> 25:1			
<b>burden</b> 23:18 28:10 136:2			
<b>business</b> 64:4,5,11 65:13 68:6,10 69:16,17 72:4,15 93:14 100:1,7 104:17,25 107:16 110:19 111:5,6,8			

87:1 91:24 92:12 93:2,4,7,11,14,17 93:21 118:6 119:1 119:25 125:6 126:4 128:1 135:21 142:12,21 143:4 144:5,24 153:19 154:1,22 170:24 179:16,24 180:7 183:23 192:23 195:11,23 198:7 199:17 200:7,11 201:3,7 201:16 202:23 207:2 213:8,25 215:6 235:21 243:24 245:10 256:13 261:6,10 263:9 <b>cases</b> 21:4,5,6 35:19 36:5 129:5 133:9 183:2 211:25 243:9 <b>cash</b> 20:14 45:7,9 45:10,12,16 46:5 47:16 49:16,22 50:4 53:15 59:24 60:17,20 61:9,10 61:16 65:18 78:25 79:20,22 80:3,7 80:10,11,12,16 81:10,21,21 82:6 82:11 87:15 105:10,11,14,15 105:16,23 106:4 114:3,4,5 118:20 119:2,7,10,13 120:5,5,15,18,19 120:22 121:7,14 121:18,23 136:21 138:7,11 147:13 147:14 153:4 176:11 177:16,18	179:4 222:21 264:18 <b>catch</b> 121:3 <b>categorically</b> 23:5 <b>categories</b> 66:7 129:20 168:9,11 168:22,24 204:14 204:16 209:3 219:23 <b>category</b> 67:21 69:6,8 150:7 168:10,10 190:6,7 <b>caveats</b> 149:16 <b>cent</b> 243:1 270:14 <b>center</b> 32:16 188:13,19,20 <b>cents</b> 23:22 27:25 59:4 168:14 175:10 235:10 242:23,24 247:10 252:5 271:10 <b>certain</b> 2:7,8,14 81:1 92:4,10 115:11 129:20 137:17 159:23 180:10 197:3 200:11 209:8 210:17 216:5,6 225:21 242:22 <b>certainly</b> 14:9 18:4 46:12 49:1 92:17 123:14 140:24 152:25 166:20,21 170:12 241:17 243:10 246:17 <b>certificate</b> 38:18 38:22 39:9,21 46:24 47:1,5,15 65:22 77:9,18 79:6,10,14,18 89:14 90:19 115:7 115:25 116:6	118:3,24 229:9,13 229:14 230:3 <b>certified</b> 128:14 128:18 274:3 <b>cetera</b> 20:15 67:7 67:10 111:21 231:6 <b>cfo</b> 131:16 <b>chance</b> 68:16 224:4 <b>change</b> 30:3 73:18 74:16 113:21 155:10 156:11 252:20 253:2 <b>changed</b> 83:18 <b>changes</b> 29:22,23 <b>changing</b> 197:5 <b>chapter</b> 65:7 184:5 192:23 199:23 200:11 202:23 211:15,18 211:21,25 213:24 <b>charge</b> 58:10,16 145:15 179:15 180:6 184:16 193:3 216:25 220:19 <b>charges</b> 108:6,14 109:12 218:18 263:6 <b>charging</b> 57:25 185:16,17 <b>chart</b> 48:4 55:10 60:16 67:11 75:13 76:3 82:4 89:23 94:17,20 105:7 122:15,24 126:18 132:3 146:16 150:4 160:15,15 161:10 182:14,17 182:18 184:12,15 207:24,25 218:8 226:19 227:13	254:25 <b>charts</b> 82:8 <b>chase</b> 18:22 <b>check</b> 255:3,5 <b>chief</b> 93:20 131:11 <b>chime</b> 241:11 <b>choice</b> 161:17,24 <b>choose</b> 195:2 <b>chose</b> 63:13 64:3 <b>chosen</b> 256:1 <b>chris</b> 10:23 <b>chuckle</b> 83:4 <b>chutchian</b> 10:9 <b>circuit</b> 199:11,16 <b>circumstance</b> 249:15 <b>circumstances</b> 158:25 193:20 <b>cited</b> 74:17 <b>citi</b> 53:6 86:15,18 179:19 <b>citibank</b> 49:17 178:2 179:4 <b>citing</b> 70:24 <b>city</b> 199:11,17 <b>claim</b> 6:14 7:6,15 7:16 23:19,21 58:12 94:22 136:25 137:10,18 139:18 140:11,14 140:23 141:23,24 142:4 143:4,22,22 143:24,25 144:11 144:12,14 145:3,4 145:16 147:20,20 147:23,24 148:2,5 148:9,18,19,21 149:5,15 150:23 151:21 152:11,14 152:25 176:23 242:2 244:15,18 244:19,22,25 246:1,2 247:21
--	---	---	---

249:1,4 250:5 262:11,12,19 <b>claimant</b> 258:1 <b>claiming</b> 180:14 180:21 <b>claims</b> 2:14,19,21 2:22 3:4,5,7,13,16 3:22,25 4:6,7,14 4:15,23,24 5:12 5:13,20,21 6:2,3 6:21,22 31:8 137:2 142:2 143:19,20 144:9 146:24 149:20 194:18 195:21 230:24 231:5,7 246:5,5,18 250:6 262:14,18 270:8 <b>clarification</b> 113:22 <b>clear</b> 26:25 61:8 74:2 106:24 126:2 138:3 151:18 164:17 165:16,18 169:20,24 225:13 228:1 242:2 <b>cleared</b> 29:22 <b>clearer</b> 150:25 168:15 <b>clearly</b> 150:16,16 152:9 213:7 242:4 <b>cleary</b> 8:3 11:16 58:2 <b>clerk</b> 11:5 145:24 <b>client</b> 58:1,2 166:22 171:4 181:1 238:8 <b>clients</b> 162:2 <b>close</b> 63:17 66:15 112:8 180:12 191:18 272:3 <b>closed</b> 56:8,19 64:9,23 65:2,6	67:10 183:13 228:23 <b>closing</b> 15:3 200:15 227:2 265:5,24 267:16 272:22 <b>code</b> 179:17 <b>codes</b> 220:24 <b>collateral</b> 2:23 3:7 4:9,17,25 5:14,23 6:5,10,14,24 7:3,7 7:13 9:3 12:18 21:11 23:9 40:2,6 40:12,17,23 41:7 41:15 42:13 43:10 44:23 45:13,17,18 45:19,24 46:6 48:9,17 50:4 59:22 61:10,11,14 65:21 66:5 67:19 78:17,18,20,21,22 80:4,8,10,11,13 80:14,16,24,25 81:5,7 82:11 88:2 92:13 93:25 94:5 95:15,17 96:15 98:25 105:11,17 105:21 106:1 107:24 112:4,10 114:3,5 119:8 120:2,10 121:20 123:25 124:9 126:19,20 127:15 129:14,16 132:10 132:15,17,25 136:22 138:7,11 140:17 143:10,11 143:16 144:3 145:21 147:14 149:10 150:23 151:14,20 152:21 160:19 162:8 170:21 171:7,10	171:10 173:18 176:11,24 177:16 179:18,19 184:15 190:9,11 193:22 193:24 194:13 198:14,18,19 203:8 215:18 217:12 222:20,21 222:21 223:10 224:7 230:10 232:19 233:22 234:21,25 238:4,9 239:11,14 247:20 251:22 261:17 262:10,13 263:12 264:4,10,23 265:12 266:13,22 267:15 268:18 270:15 <b>collateralized</b> 49:22 112:14 176:12 177:17,19 179:4 264:18 <b>colleagues</b> 199:20 <b>collecting</b> 233:20 <b>collectively</b> 167:25 168:8 <b>colon</b> 10:10 <b>column</b> 74:15 76:4,4,6 115:17 147:12 148:6 196:10 269:20 <b>combined</b> 84:14 <b>come</b> 12:23 28:14 30:10 44:22 134:6 137:21 142:16,17 142:18 148:6 158:23 160:3 171:14 213:16 242:14 264:22 <b>comes</b> 77:13 80:13 176:14 218:24 250:17	266:15 <b>coming</b> 43:9 140:18 144:25 166:3 251:21 <b>commencing</b> 134:15 <b>comment</b> 109:3 214:15 236:21 <b>commentary</b> 24:9 <b>commenting</b> 13:4 15:15,16,20 16:12 <b>comments</b> 15:10 <b>commerce</b> 188:21 <b>commitment</b> 258:12 260:8 <b>committee</b> 9:19 100:9 103:10 131:14 195:16 210:3 <b>committee's</b> 3:11 3:20 <b>commodity</b> 258:11 <b>common</b> 4:4 5:17 6:18 35:5 66:22 67:2 <b>communication</b> 242:6 <b>communications</b> 24:5 169:16 <b>comp</b> 230:22 <b>companies</b> 65:15 117:2,4 <b>company</b> 22:9 25:9,10 49:16 57:23,24 64:8,22 64:24 65:16,17 66:11,14,18 68:9 68:22,23 69:8 99:6,15 100:24 104:19 120:15,17 123:19 124:23 125:1,16 130:10
--	--	--	--

130:11,22 131:12 134:12,18 178:6 180:9 195:16 203:4 207:20 208:21,24 209:11 210:4,11,14,18,24 214:4 230:13,13 231:12 <b>company's</b> 21:17 196:23 <b>company's</b> 65:17 71:17 206:17 215:19 <b>comparable</b> 100:15 <b>compare</b> 103:3 125:6 180:13 239:15 243:22 <b>compared</b> 14:21 105:17 <b>compares</b> 90:18 <b>comparison</b> 112:9 118:12 126:24 132:5,8,12 255:5 <b>compensate</b> 194:18 <b>compensation</b> 122:17 123:2 220:21 <b>competence</b> 12:2 <b>complained</b> 162:14 <b>complete</b> 27:16 246:10,16 <b>completed</b> 233:14 <b>completely</b> 27:8 170:8 243:1 <b>complicated</b> 14:17 19:2 242:9 243:19 <b>component</b> 53:15 76:23 87:15 94:5 95:9 160:19,22	185:19,22 <b>components</b> 58:24 185:6 <b>composed</b> 85:15 86:11 <b>comprised</b> 95:7 <b>compromise</b> 246:1 <b>compromised</b> 246:2 247:5 <b>compromising</b> 246:1 <b>computations</b> 166:17 <b>computes</b> 58:19 <b>concede</b> 169:23 173:19 174:2 <b>concept</b> 60:19 <b>conceptually</b> 63:16 <b>concern</b> 40:13 55:20,24 56:11 57:9,13 63:15 70:15 85:15 86:10 99:4,25 101:10 111:5,6,7,10 125:14 126:8,16 136:8 178:5,7,11 178:13 195:12 215:14,17 217:24 217:25 220:23 233:13 239:8 242:24 253:7,9,14 261:4 <b>concerned</b> 29:18 30:1 213:23 <b>concerns</b> 239:21 <b>conclude</b> 135:5 <b>concluded</b> 61:14 117:10 234:19,23 273:16 <b>conclusion</b> 34:21 157:5	<b>conclusions</b> 74:17 194:20 <b>concur</b> 77:14 92:15,17 <b>condition</b> 179:2 222:20 <b>conduct</b> 117:21 215:14 <b>confidence</b> 245:6 <b>confidential</b> 24:4 236:23 246:14 259:5,17 260:22 270:7 <b>confidentiality</b> 250:3,3 <b>confirm</b> 42:18 237:25 239:2 <b>confirming</b> 26:19 <b>conflates</b> 209:14 <b>conflating</b> 34:20 <b>confused</b> 186:13 <b>connection</b> 2:2 6:19 57:9 73:16 105:10 113:18 121:13 136:24 156:6 186:21 203:1 238:4,24 243:7 251:21 254:10 267:16 270:14 <b>conservative</b> 33:18,22 34:22 63:14,15 83:14 118:1 129:18 195:8 203:15,18 205:1 <b>consider</b> 40:1,5 50:13,16,19 52:2 52:5 85:22 86:25 87:5 97:24 98:6 99:21 129:8,9,11 136:20	<b>considerable</b> 64:9 108:8 <b>consideration</b> 14:11 35:17 36:4 53:3 54:6 87:13 87:19,24 168:1 171:16 247:1 260:12 261:21 <b>considerations</b> 246:25 260:16 <b>considered</b> 33:15 51:11 52:6 53:21 65:21 175:22 <b>consist</b> 167:24 <b>consistent</b> 20:16 64:19 94:2 101:11 103:6,6 122:10 <b>consisting</b> 210:5 248:7 <b>consists</b> 204:13 <b>consolidated</b> 29:1 <b>constitute</b> 156:9 <b>constituted</b> 61:11 218:3,4 <b>contain</b> 39:8 <b>contained</b> 46:23 71:2 79:5 234:5,9 <b>contains</b> 113:25 <b>contemplated</b> 259:24 260:1 <b>contemporaneo...</b> 129:22 159:16 <b>contend</b> 124:13 149:1,4 <b>contending</b> 158:14 <b>content</b> 13:3 <b>contents</b> 237:21 238:11 <b>contested</b> 113:19 154:23 156:6,10 <b>context</b> 27:13 129:23 166:13,15
--	---	---	--

178:5,7,11,21 238:3 240:6,20 242:18 245:3,25 <b>contexts</b> 170:24 <b>contingent</b> 50:11 50:21 122:8 178:11 200:20,22 <b>continue</b> 29:19 30:2 37:14 61:2 72:10 159:1 171:13 173:7 178:8 232:14 235:8 <b>continued</b> 23:19 71:25 72:13 222:20 <b>contract</b> 170:3,4 189:1,5 <b>contracted</b> 64:25 <b>contracts</b> 243:25 <b>contradiction</b> 245:1 <b>contrary</b> 166:22 241:18 <b>contribute</b> 111:14 <b>contributed</b> 35:3 69:22 <b>contribution</b> 111:14,17 <b>contributors</b> 68:18,21 <b>contrived</b> 99:18 106:24 <b>convention</b> 37:23 <b>conversations</b> 262:22 270:24 <b>converted</b> 23:18 211:25 <b>conveyed</b> 260:20 <b>copied</b> 229:3 <b>copies</b> 20:24 257:5	<b>copy</b> 154:10 161:4 198:7 223:13,13 228:2 257:13 <b>corner</b> 32:15 39:2 39:13 51:3 259:5 <b>corporate</b> 34:12 34:14,18,23 35:2 37:5 38:7 43:4 57:17 66:10 69:8 69:13 94:4,7,10 98:3,7 99:13 100:19,24 101:2 102:23 103:20 104:11,14,19 105:3 111:20 184:20 197:8 204:21 205:2 216:7,12 <b>corporation</b> 1:7 2:16 11:7 71:3 138:22 <b>correct</b> 26:7,12 28:22 29:3 31:8,9 31:11,12,14,21,22 31:25 32:1,23 33:7 34:7,9,13 36:14,22 37:3,5,6 37:8,13,23 38:5 38:12,15,18 39:22 39:24 40:7 41:13 42:2 43:5,20 44:1 44:12,13 45:4,8 45:24 46:10,13,24 47:10,18 48:13 55:6,21,24 56:2,8 56:19,22 57:4,5 58:16,22 59:19,25 60:3,6,7 65:9,10 68:8 69:11 71:5 72:1,22 76:9,15 76:22 77:19,21,24 78:2,5,12,13,14 78:15,18 79:3,18	79:20,23 80:1,2,5 81:8,9,11,22,25 82:3 83:10,13,20 84:2 85:2 89:7 90:2,13,16 91:6,9 91:12,24,25 92:3 92:7,14,22,24 93:4,15,22 94:1,5 94:11,12,15,16,18 94:19,24,25 95:1 95:2,4,5,8,11,24 96:10,16,22,23 102:21 103:14,18 104:6 105:1 106:20,21 112:17 112:19 114:4,14 114:15 115:3,5,9 115:21 116:7,9,17 117:1 118:7,22 119:14,17,18 120:6,10 122:18 123:12,21 124:14 124:17,20 125:3 125:20,23 126:5 126:10,16,17,22 126:23 127:4,8,10 127:12,15 133:1 134:5,25 135:12 141:7 155:4,13 156:4,24,25 157:1 157:13,22,25 158:1,5,22 160:7 160:8,16 161:15 163:2,3,6,7,11,16 164:21 175:4 177:4 178:4,9 179:6 182:19,20 183:6,7 184:6,16 192:2,5,9,10 194:18 196:22 197:1,12 198:20 199:5,11,17,21,24 200:6,17,18,23	201:5,9 202:20 203:8,15 205:17 206:8,12,15 208:14,24 210:7 210:11,14,20,24 210:25 211:13,25 212:5 214:10,14 215:15 216:13 217:3,7 218:19,22 219:2,3,7,11,19 219:20,24 221:14 222:4 224:11 227:15 228:15 230:10,11 233:5,8 236:14,16 250:20 255:1 258:18 260:3,6 261:14 262:19 263:9,15 263:19,24 264:4 264:15,19,23 265:2,6,9,10,13 265:15,18,19,22 266:2,8,13,18 267:4,13 268:1,4 268:6 <b>corrected</b> 6:15 33:1,5 197:24 <b>correction</b> 12:3 113:25 <b>correctly</b> 139:8 214:17 <b>correctness</b> 12:4 <b>correlation</b> 252:16 <b>correspond</b> 226:25 <b>corresponding</b> 57:3 120:8 <b>cost</b> 35:15 74:10 101:17 102:23,24 103:20 111:16 123:24 124:8
--	--	--	--

<b>costs</b> 35:18 36:4 36:13,22 37:8,24 38:1,4,11 43:5 66:8,8,9 94:6 97:22 98:2 111:15 111:20,21 124:10 125:11 132:14,16 132:18 133:8,9 211:10 214:9,14 214:19 215:13 216:8,25 217:8,10 217:21 218:1 219:1,7 224:19 <b>couldn't</b> 96:9 99:22 217:14 <b>counsel</b> 13:22 18:22 20:18 45:14 46:2 57:17 72:7 165:7 220:20 221:3,14,15 225:20 226:2 236:21 241:11 256:23 <b>counsel's</b> 46:4 <b>counsel's</b> 238:8 <b>count</b> 13:16 49:9 49:12 50:15 66:8 143:5 256:8 263:7 <b>counted</b> 50:12 69:21 177:2 <b>counting</b> 138:16 177:8 185:15 192:11 193:10 254:14,17,18 263:6 266:13 <b>country</b> 272:10 274:21 <b>counts</b> 46:1 <b>couple</b> 97:7,14 107:11 <b>course</b> 12:6 13:21 40:14 123:19 137:20 149:10,22	183:22 200:7 233:13 <b>court</b> 1:1,12 8:22 11:6,12,14,18 12:11,20 13:9,13 13:23,25 14:4,6 14:15,18,23 15:5 16:3,8,15,18 17:1 17:19 18:3,20 19:19,22,25 20:5 20:8,10,23 21:16 22:4,11,19,25 23:13 24:18,24 25:1,6,8,17,20,24 26:3,5,8,10,14,17 27:3,7,12,18,20 28:2,8,14,17,21 28:23 29:5,12,14 29:17,23,25 30:5 30:12,16,18,20 50:2 51:7,12,16 53:21 60:14,19,24 61:1,3,8,19,21,25 70:2 71:21 73:3,7 73:12,15,23,25 74:1,3,5,20,24 85:19,22 86:2,4 86:22,24 88:13 92:19 97:1,11,17 98:10 102:7,11 108:25 109:2,4,7 109:17,21,23,25 110:14,16,22 111:2,9,19,23,25 112:15,18,20,22 112:24 113:2,6,9 113:14,17,23 114:7,10,13,15,24 115:1 126:3 128:7 132:21 133:4,12 133:17,21,23 134:2,6,9,20,23 135:1,4,7,10,16	135:18,22 136:10 136:13,15,17,19 137:21,25 138:2,9 138:12,15,18,21 139:2,6,14,25 140:1,5 141:2,5 141:11 142:22 144:2,17,22 146:4 146:9,14,17,19 147:1,4,17 148:7 148:10,23,25 149:11,22,24 150:10 151:4,13 152:16,18,23 153:2,7,11,13,15 153:20,22 154:7,9 154:12,18,21 155:5,7,12,18,20 155:23 156:3,5,13 156:18 157:16,18 158:10,14,20 159:7,11,18,19,22 160:1 164:4,8,10 164:14,18 165:3 165:10,12,15,19 165:21,23 166:7,9 167:5,9,15 169:22 170:3,11 171:19 171:24 172:3,9,12 172:15,23,25 173:10,20 174:8 174:16,19 177:8 177:11,18 179:2 181:18 182:2,5,12 182:14 185:25 186:3,14,17 188:1 190:25 191:5,9,22 194:21,24 196:3,4 196:9,12,15,20 197:10,13,17,21 198:1 202:12 209:17,20,24 213:13,20 223:6	223:15,18,21 224:20,25 225:2,7 225:17,25 226:2,5 226:10 229:20 232:11,21,25 234:1 235:8,18,23 236:5,13,15,18,24 237:5,11,14 240:6 240:10,12 241:23 244:2,6,9,13,18 245:7,14,20,21,25 246:7,12 247:7,15 247:25 248:4,7,11 248:13,17,22 249:13,22 250:1 250:16,24 251:1,3 251:7 253:25 254:2,4 257:7,10 257:13,16 262:25 263:2 268:8 269:10,13 270:3 270:18,22 271:9 271:17,21,24 272:16,24 273:1,4 273:10,13 <b>court's</b> 11:10 14:8 14:25 17:16 <b>courtney</b> 10:20 <b>courts</b> 21:6 <b>court's</b> 241:9 <b>cover</b> 200:19 204:5 236:6 <b>covered</b> 120:14 191:16 244:10 262:3 <b>covers</b> 218:25 <b>crazy</b> 92:21 <b>create</b> 142:15 <b>creates</b> 44:14 <b>creation</b> 142:25 143:1 <b>credibility</b> 14:14
---	---	---	--

<b>credible</b> 19:4	74:21,25 109:23	<b>date</b> 18:15 21:11	<b>days</b> 39:19 41:21
<b>credit</b> 19:20 45:6	110:1 112:25	21:20 31:15 40:23	157:24 273:6
46:9,22 47:14	114:16,18 135:10	40:25 41:2,2,5,5	<b>deadline</b> 159:13
49:5,9,17,22 50:6	135:12 154:4	41:15,21,22 42:14	<b>deal</b> 27:3,4 52:10
50:14 52:3,12	155:12 156:14,16	70:12,17 72:23,23	125:25 145:11
53:25 55:12 59:12	156:19 166:2,17	74:10 78:17 84:23	148:17 180:11
59:25 60:2 65:14	171:9,19 172:16	87:25 88:3,4 89:5	195:19 242:9
65:15,16,18,19	196:3 216:19	99:1,20 106:12,14	<b>dealing</b> 11:23
79:1,4,7 82:12	225:8,9 233:1	106:17,19,22	25:17 41:4 143:19
83:10,16,19,20,23	234:3 256:24	107:4,7 110:11,12	158:15 245:15
84:1,13,18 85:1	257:17 263:3	115:3,5 117:22	<b>dealt</b> 12:5 123:11
87:23 95:7 118:19	<b>crosses</b> 19:25	122:9,11,12,14	123:13 147:10
118:20,23 122:4	<b>curious</b> 137:17	125:19 126:1,3	153:1 220:23
123:7,17 127:7,9	<b>currency</b> 258:11	132:25 139:12	248:8
136:4 168:23	<b>current</b> 153:5	141:6,25 142:2	<b>debt</b> 19:20 49:4,6
176:7 180:11	158:8,11	149:14 154:24	49:9,12 50:19,20
199:4,5,9,10,24	<b>cushion</b> 112:9	157:6 163:17,25	54:15,20 60:3
200:17,19,23	<b>cut</b> 15:5	191:18 198:18	83:12,20 84:18,23
217:15 230:16	<b>cutting</b> 18:21	200:2,4,15,15	86:14,19 87:22,23
252:13 255:14,15	<b>cyrus</b> 2:5,10 4:20	203:10,13 204:6	87:24 88:2,22
264:14,15 265:1,6	4:21 5:2,8,10 9:11	206:23 226:25	105:18,24 106:22
265:17 266:1,6,7	12:13 50:3,5 97:3	227:1 230:7	112:10,16 122:4
266:22 267:21	177:17 215:9	232:19 256:11	145:20,21 150:6,8
268:11,12	264:19	260:3 262:1	150:13,14,15,17
<b>creditor</b> 93:3	<b>d</b>	268:12,23 272:2,3	151:9 152:5 175:7
<b>creditors</b> 3:20	<b>d</b> 1:22 10:16,20	274:25	175:8,10 176:1,14
9:19 28:10 61:5	11:1 74:13,14	<b>dated</b> 29:1,2	176:24 177:3
61:15 131:13	76:17 102:5	41:20 71:4 154:23	192:5 193:9
142:16 143:20	136:25 141:17	155:1,1 156:7,7,8	194:14 195:7
154:1 195:17,18	142:23 143:21	203:22 204:1	223:11 256:2
<b>creditors1</b> 3:11	154:20 186:2	220:12 257:23	261:12 266:21
<b>creditors'</b> 100:9	195:20	<b>dates</b> 41:4 254:12	269:3
103:10	<b>daily</b> 231:11	<b>date's</b> 240:2	<b>debtor</b> 1:9 58:7
<b>crescent</b> 8:22	<b>dallas</b> 8:23	<b>daubert</b> 15:7	64:14 93:2 100:6
<b>critical</b> 89:3	<b>dashes</b> 209:2	<b>david</b> 10:25 30:21	104:16 106:4
<b>criticize</b> 161:24	<b>data</b> 75:20 125:4	62:1 70:4 71:23	130:6,21,22
161:25	131:7 158:24	160:7	138:10 148:5
<b>criticizing</b> 161:17	159:25 191:15	<b>day</b> 13:21 56:7,18	170:22 193:21
<b>critique</b> 21:25	199:12 202:22,25	56:18 142:21	<b>debtor's</b> 14:19
<b>cro</b> 181:16	213:18 218:21,23	148:8 157:12,20	27:7 31:2 35:15
<b>cross</b> 12:6 19:13	218:24,25 219:6,9	157:21 158:3,9,12	35:17 41:22 42:22
19:23 20:19 30:9	219:14,21 221:5,5	252:20 272:4,5	<b>debtors</b> 2:1,8,14
30:13 70:2,4	221:10,13		2:18,21 3:1,6,12

3:14,21,23 4:9,16 4:25 5:14,22 6:5 6:23 7:17 8:13,21 11:9 13:17 14:16 56:5,10 57:7,13 58:15 92:6 95:4 96:5 103:4 119:6 122:16 130:20 131:11 135:25 138:24 141:9 144:18 155:17 165:6 171:2,11 173:12,17 178:23 183:1 193:24 197:13,18,22 200:11 202:22,25 207:6 210:9 220:15,22 223:9 224:6 271:19 <b>debtors'</b> 79:8 89:4 89:6 93:17 94:13 95:6,16,23 105:6 <b>debtor's</b> 215:7 222:18,20 <b>debts</b> 224:8 <b>december</b> 56:6,24 87:6 96:16,17 134:24 171:17 207:4 231:18 257:23 270:4 <b>decide</b> 190:25 <b>decided</b> 18:11 130:10 147:3 165:16 <b>deciding</b> 66:19 67:9 <b>decision</b> 87:22 258:5 <b>decisions</b> 195:10 195:15 258:6 <b>deck</b> 24:2,16 127:5 207:9	<b>declaration</b> 12:7 25:5,13,14,18 29:9,10,16,18 30:1 32:3 35:24 36:1 41:22 42:1,4 42:24 70:7 73:18 73:21 74:1,3,4,13 74:14,17 76:17 84:6 101:21 113:19,24 114:6 122:15 131:20 137:24 147:8,8 155:9 157:20,24 158:3,4,5,11,12 159:9,12,15,25 160:10,13,14,14 160:16 161:4 165:12 172:11 174:20,23 175:25 178:17,19 182:7,8 191:10,12 192:4 193:17 205:11,15 210:8,9 211:2 212:21 215:1,21 215:23 218:7,20 219:24 220:12 221:20 222:16,17 222:23 223:8,23 224:6,17,18,21 226:14,17 227:12 227:18 228:6 229:2,8,17 232:2 232:3 233:4,8 234:6,7,8,9,13,20 234:23,24 235:15 237:23 238:21 251:15,17 256:16 257:10,14 <b>declarations</b> 2:8 12:8 15:7,10,22 22:20,25 24:21 154:11,22 156:6 160:5 178:10	198:10 212:15 235:14 236:10 238:25 <b>decline</b> 100:25 <b>decrease</b> 180:16 247:20 <b>dedicated</b> 76:5 <b>deduct</b> 68:12 102:18 137:19 138:8 147:24 162:11,13 169:5,6 169:7,7,8 184:24 184:25,25 185:4 193:7 <b>deducted</b> 61:13 101:14,17 102:17 124:11 184:12 185:2 <b>deducts</b> 94:3 <b>deed</b> 236:9 <b>deem</b> 241:11 <b>deemed</b> 88:6 210:23 <b>deeper</b> 152:5 <b>deeply</b> 152:6 <b>defer</b> 57:22,24 229:22 <b>deficiency</b> 23:24 <b>defined</b> 168:7 <b>defining</b> 22:14 <b>definitely</b> 38:13 66:8 <b>definition</b> 53:3,5 87:12 91:18 97:23 106:15 107:15 120:9 149:20 167:21 175:15,23 <b>definitions</b> 167:17 <b>degree</b> 106:16 108:8 <b>delineated</b> 40:9 <b>delineation</b> 61:18	<b>deliver</b> 157:19 158:2,7,8,11 <b>delivered</b> 168:21 168:25 169:4 252:22 <b>delivery</b> 157:6 <b>delta</b> 68:7,19 70:10 82:21 90:11 95:6,22 139:20 <b>demand</b> 5:5 <b>demanding</b> 250:11 <b>demarcation</b> 54:5 <b>demonstrative</b> 13:20 18:14 47:24 81:11,14 94:18 121:17 150:12 269:11,17 <b>demonstratives</b> 31:3 48:2 <b>denominator</b> 197:2,4 <b>depending</b> 27:13 147:22 <b>depicted</b> 76:12 99:19 <b>deposed</b> 31:17 235:21 <b>deposition</b> 36:16 36:18,19 37:2 39:19 45:21 83:2 93:9 108:18 109:11 124:16 135:15 157:22,25 159:9 198:7 199:14 201:11 202:2 203:17 221:3,17 225:19 228:14,20 235:25 <b>deposits</b> 183:4 <b>derive</b> 104:13 <b>derived</b> 108:10,12 108:17,22
---	---	--	---

<b>derives</b> 63:25 <b>describe</b> 131:19 233:10 <b>described</b> 205:2 <b>description</b> 108:16 <b>descriptions</b> 256:20,24 <b>designated</b> 135:14 225:11 <b>designations</b> 135:14 <b>designed</b> 24:9 <b>despite</b> 153:16 <b>detail</b> 188:5,6 190:21,23,24 191:6,13 220:6 <b>detailed</b> 219:16 220:7 <b>details</b> 182:24 246:22 <b>determination</b> 2:3 7:14 14:22 18:13 23:10 <b>determine</b> 2:19,22 3:3,6,13,16,22,25 4:5,13,22 5:11,19 6:2,20 46:3,4 91:18 117:22 119:12 130:21 166:25 167:1 173:13 192:15 222:13 <b>determined</b> 226:1 <b>determining</b> 129:25 173:17 233:21 <b>detour</b> 153:17 <b>dibattista</b> 10:11 <b>didn't</b> 54:8,22 56:13,16,24 57:3 58:8,25 59:4 60:3 60:5 68:13,14	73:22 74:18 80:20 88:9 89:1,2 91:20 95:8 96:20 104:1 209:15 210:13 212:9 214:18,24 214:25 217:25 220:3 221:2,6,12 221:16,19 222:10 225:20 251:8 255:4 257:3 261:18 264:7 <b>die</b> 190:4 <b>diehard</b> 217:1 <b>difference</b> 16:15 34:15 46:14 47:10 47:13 48:21 58:21 59:10 60:8 65:23 77:16 82:12 95:15 95:18 98:15,20 99:18 105:7 127:14 158:18 196:21 <b>differences</b> 48:16 <b>different</b> 11:22 15:8 17:13,14,21 17:23 20:25 23:5 31:25 41:21 42:10 43:15,15 44:5 47:11 62:16 64:3 65:24 71:9 77:6 79:5,9,22 95:3 98:24 119:1 126:4 134:24 147:9 164:11,12 170:13 177:7 180:8,12 191:5 196:15,16 196:19 213:7 243:1 254:10,12 266:3 271:5 <b>differential</b> 67:13 68:4,19 <b>differently</b> 172:17	<b>diligenced</b> 214:12 <b>diminished</b> 143:16 151:19 152:1 <b>diminution</b> 47:25 115:15 132:3 136:2 142:8,24 143:1 147:21 148:20 150:12 151:14,16,16 192:13 193:12 256:10 <b>dip</b> 86:15 136:21 139:4,9 140:16 141:15,17 142:13 142:14 145:1,3 179:19,21 192:4,9 192:22 193:21 195:5 256:2 261:13 265:1,5 <b>dips</b> 178:21 <b>direct</b> 29:6 30:2 30:21 35:18 36:4 62:1,14 66:14,15 70:22 71:23 92:5 92:13 96:14 97:4 97:12,22,24 98:2 98:11 99:12 100:14,15 101:13 101:16,17 102:4 102:13 104:9 108:5,7,8 113:20 124:10 125:11 133:20 155:2,9 156:9 159:13 189:11 190:15 204:16,17,19 223:19 226:11 227:18 231:25 237:15 251:12 268:9 <b>directed</b> 141:16	<b>directing</b> 32:14 <b>direction</b> 164:11 164:13 <b>directions</b> 210:16 <b>directly</b> 66:5 170:24 220:23 232:17 241:18 <b>disagree</b> 47:21 56:16 93:25 161:21 190:18 <b>disagreed</b> 205:7 <b>discern</b> 108:10,11 <b>discernible</b> 63:19 <b>discharged</b> 53:23 <b>disclaimer</b> 260:5 <b>discount</b> 21:24 23:25 43:24 44:3 64:6 161:22 163:1 <b>discounts</b> 69:6 <b>discovery</b> 3:2 6:19 84:5 191:24 245:19 <b>discuss</b> 260:15 <b>discussed</b> 26:22 171:11 180:9 186:12 191:19 205:11 221:8 237:6 261:9 262:21 270:25 <b>discussion</b> 85:4 205:14 245:5 249:1 259:8,23 268:21 <b>discussions</b> 170:5 170:18 173:15 199:20 203:11 236:25 237:4 240:21 245:6 246:13,20 260:18 <b>disingenuous</b> 247:8 <b>disparity</b> 44:15
---	--	---	---

[disperse - efficient]

Page 20

<b>disperse</b> 263:21 <b>disposal</b> 97:22 <b>disposing</b> 98:2 <b>disprove</b> 242:1 244:24 <b>dispute</b> 18:18 54:21 55:2,8 60:1 148:12,15 <b>disputed</b> 242:2 244:25 270:7 <b>disputes</b> 73:17 <b>disputing</b> 54:14 54:19 <b>distinction</b> 49:14 81:4 99:16 <b>distortion</b> 139:25 <b>distribution</b> 236:23 259:6,17 <b>district</b> 1:2 <b>divergent</b> 17:13 <b>divide</b> 267:18 268:3 <b>divided</b> 77:12 255:9 267:19,23 268:3 <b>dividing</b> 77:11 255:6 <b>dkt</b> 7:8,18 <b>docket</b> 35:8 222:22,22 <b>document</b> 2:3,9 2:12,16,24,24 3:8 3:9,18,18 4:1,2,10 4:18 5:3,5,8,15,23 6:6,15,16,24,25 7:8,19 31:2 35:24 39:1 51:2,6,19,24 53:10,19 87:4,18 157:4 181:12 186:4,24 191:3 207:7 224:5 236:2 237:20 238:21 239:19 240:25	241:1 243:19 246:11,16 251:6 251:14,20 253:6 253:17 <b>documentation</b> 163:13 <b>documents</b> 18:13 19:20 24:19,20 31:1 47:11 51:10 51:14 52:2 115:22 119:24 141:14 157:19 158:2,6,7 158:23 159:2 166:15 168:22 174:5 176:8 197:24 233:11,12 233:15,20 234:5,9 234:13,15 235:11 235:17 237:8,22 237:25 238:11 240:20 247:11 270:14 <b>document's</b> 245:12 <b>doesn't</b> 66:2 68:23 86:21 105:19 200:20 223:14 236:18 238:13 249:3,4 <b>doing</b> 34:17 63:17 145:9,10 181:1 211:7 240:22 272:22 273:1 <b>dollar</b> 69:8 77:16 152:13,14 177:9,9 222:3 <b>dollars</b> 69:1 99:12 244:1 <b>don't</b> 54:12,24 55:2,12 56:16 57:11,16,20 62:18 65:19 66:12 68:17 84:16 85:11 86:3	88:17 93:18 101:20 110:12,12 115:22 198:23 201:4,8 202:14 204:24 206:7 213:9 217:22 219:18,25 220:3 220:11 222:7 223:13 232:22 234:14,17 235:25 237:8 240:18,19 242:16 244:11 246:11,16 250:5,7 250:10,12 257:12 259:11,11 260:23 262:22 266:14 267:2,5 268:19 270:9 272:11 273:1 <b>double</b> 184:16 185:15 192:11 193:10 254:13,16 254:18 256:8 263:6,7 <b>doubt</b> 19:10 <b>draft</b> 73:22 74:19 236:23 259:5 <b>drafted</b> 243:25 <b>drain</b> 1:22 69:24 92:23 255:22 <b>drawing</b> 49:14 <b>drawn</b> 83:16 84:1 84:8 88:23,24 122:7,12,14 123:14 177:21,24 178:6 199:5,9,24 200:16,19 <b>driver</b> 23:23 <b>dublin</b> 9:25 <b>due</b> 144:25 166:5 178:8 179:20 191:2 244:8	<b>dumped</b> 147:6 <b>duplicate</b> 68:14 <b>duplicative</b> 108:3 108:9 <b>dying</b> 113:3
<b>e</b>			
<b>e</b> 1:21,21 8:1,1 10:10 11:1,1 28:21 73:14 154:20,20 188:21 274:1 <b>eaglepicher</b> 74:7 <b>earlier</b> 103:18 135:19 156:8 187:6 205:4 224:22 236:6 243:23 <b>early</b> 31:18 93:16 171:6 249:8 <b>earned</b> 64:22 72:5 184:5 <b>earnings</b> 185:1 <b>ease</b> 30:8 <b>easier</b> 14:25 15:2 181:25 232:5 <b>easiest</b> 67:3 <b>ebitda</b> 22:16 34:3 34:11 66:19 <b>ecc</b> 166:19 <b>ecf</b> 32:5 62:7,10 <b>ecg</b> 62:18 <b>ecro</b> 1:25 <b>edits</b> 73:22 74:18 <b>edward</b> 9:7 12:16 73:5 98:14 151:23 216:21 263:5 <b>effect</b> 17:18 67:18 136:20 139:3 <b>effectively</b> 36:24 145:23,25 146:1,3 150:5,8 <b>efficient</b> 19:17,24			

<b>effort</b> 243:22	<b>enforcing</b> 169:19	<b>equivalents</b> 80:12	<b>estimates</b> 209:8
<b>efforts</b> 254:13	169:22 170:19	81:22 120:5	<b>estimation</b> 105:4
<b>eight</b> 25:24	<b>engaged</b> 93:16	<b>erased</b> 34:16	<b>estoppel</b> 166:21
178:18,24	211:15,18,21	<b>erie</b> 74:6	242:19
<b>eighth</b> 9:4	212:4	<b>error</b> 74:8	<b>et</b> 11:7 20:14 67:7
<b>either</b> 16:24 19:10	<b>engagement</b> 31:7	<b>errors</b> 73:24	67:10 111:21
45:19,22 52:11	31:10	<b>esl</b> 2:5,11 4:12 6:1	138:22 231:6
137:20 158:4	<b>enhances</b> 143:3	8:4 11:17 25:24	<b>evaluate</b> 56:20
170:24 178:10	<b>ensure</b> 254:13	26:10 31:13 49:22	131:7 251:22
179:3,3 188:4	<b>entails</b> 22:17	50:3,5 51:18 52:8	<b>evaluating</b> 21:21
231:10 233:19,19	<b>enter</b> 140:19	55:20,23 56:1,6	226:6
234:5,8,12 235:13	<b>entered</b> 12:7	57:8,14 58:1,3,6,8	<b>evaluation</b> 63:7
239:25 242:1	137:15 142:22	85:14 86:1,7,9	105:10 110:17
250:10 265:21	144:5,14	143:13 159:22	115:4 117:16
270:13	<b>entire</b> 29:16 93:13	171:11 173:14,25	129:13
<b>element</b> 22:20	112:11 139:10	176:8 177:17	<b>evaluator</b> 129:5
<b>eligibility</b> 255:4	169:13,15 218:16	178:15 181:1	<b>evening</b> 182:19
<b>eligible</b> 39:5,16	218:19,25 219:4,6	200:16 215:18	<b>event</b> 29:2 53:7
90:8,12,19 91:11	219:14 220:5	226:25 233:16	162:17 207:5
91:16,17 97:19	257:12	236:5,8,13,21	210:4
115:11,21,25	<b>entirely</b> 14:19	237:17 238:8,14	<b>eventually</b> 217:12
116:8 230:7	169:24 221:3	239:19 241:18	231:10
254:22 255:6	<b>entities</b> 217:2,6,17	242:6,21,25	<b>evercore</b> 222:2,2
<b>eliminated</b> 112:11	218:3,5	245:17 246:22,22	<b>evidence</b> 11:23
<b>else's</b> 20:2	<b>entitled</b> 7:16 18:4	247:21 251:15	12:5 19:18 24:13
<b>email</b> 157:10	31:2 87:5 92:6	253:18 259:15	25:6 26:25 27:23
<b>employed</b> 193:14	152:10 222:17	264:18 270:13	38:25 51:10 125:9
<b>employee</b> 36:6	226:19	271:14	135:14 136:4
102:15 188:12	<b>entity</b> 99:22	<b>esl's</b> 5:5 172:4	154:8 162:6,20
216:25	<b>enumerate</b> 45:22	<b>esl's</b> 246:22 261:3	166:13,25 167:4
<b>employees</b> 185:5	<b>enumerated</b> 120:9	<b>essence</b> 15:9,11	169:17 170:18
189:3,6,9,12,15	120:11	15:14,20 20:2	171:1,1,3,3,5
189:16,21,23,25	<b>enumerates</b> 120:3	149:13 197:11	172:22 173:23,25
190:2 217:21	<b>equal</b> 114:2	<b>essentially</b> 22:24	174:3,10 191:4,6
231:5	<b>equation</b> 140:12	93:7 99:6	191:12 232:15,18
<b>encumbers</b>	<b>equipment</b> 168:12	<b>establish</b> 136:2	232:22 235:20,24
265:11	<b>equitable</b> 166:21	186:18	238:12 239:24
<b>ended</b> 252:16	241:16 243:2,11	<b>established</b> 38:8	240:1,2,4,10,16
<b>enforce</b> 171:24	243:14 247:7	83:2 181:14	241:8,8,25 243:3
248:18	<b>equity</b> 15:25	<b>estate</b> 111:3	243:4 247:8
<b>enforced</b> 171:4	210:10,13,19,22	<b>estimate</b> 2:14	248:15,16,21
<b>enforcement</b>	213:14,15,19	<b>estimated</b> 209:7	251:9 253:24
173:24	247:7		254:5

<b>evidentiary</b> 135:6	<b>exceeding</b> 39:7	<b>exhibit</b> 24:22 25:2	<b>exist</b> 108:15
<b>ex</b> 231:5	<b>excel</b> 33:2,8	25:14 26:2,9,9,24	117:15
<b>exact</b> 110:12	<b>excel's</b> 33:3	26:24 28:6,25	<b>existing</b> 244:25
262:22	<b>exception</b> 137:6,6	38:24,25 51:24	<b>expanding</b> 223:19
<b>exactly</b> 27:1,17	172:9 179:17	62:6 74:12,13,14	<b>expect</b> 200:21
32:14 34:17 57:16	<b>exceptions</b> 17:24	74:14 76:17 81:16	231:9 245:5
69:12 147:19	245:1,2	81:18 85:7,10,17	255:25 257:3
175:13 182:16	<b>excerpt</b> 52:18,22	86:25 87:4,5	<b>expectation</b> 249:7
209:14,21 225:5	52:24 120:2	102:5 116:20,21	249:14
242:20 244:15	<b>excerpts</b> 13:20	153:5 157:9 158:8	<b>expected</b> 134:1
<b>exam</b> 196:3	31:3 119:20 232:6	159:24 161:8,9	262:16
<b>examination</b>	<b>excess</b> 47:17	172:12 178:17	<b>expenditures</b>
19:14,24 30:21	<b>exchange</b> 157:11	179:8 181:17,25	66:13,14 180:10
62:1 70:4 71:23	248:25	182:1,10,13 183:1	<b>expense</b> 6:11 7:4
74:25 97:4 98:11	<b>excitement</b> 39:7	183:4,9,25,25	67:18 93:5 94:10
110:1 114:18	<b>exclude</b> 2:7 34:23	184:1 185:18,23	98:7 99:12,13
128:9 132:22	45:23 83:18,21	185:25 186:2	101:13,16 102:15
154:5 155:13	164:25 165:14	187:6,7,11,16	102:18,18 103:20
156:16,19 159:1	172:17 188:8,18	190:20 191:13,25	107:25 187:15
171:19 173:7	248:14,23	192:18 193:15,18	188:12 209:3,6
174:18 216:19	<b>excluded</b> 65:21	196:6 197:24,25	241:21 256:6
225:9 226:11	66:2 83:24 84:18	201:12 203:25	<b>expenses</b> 6:12 7:1
234:3 237:15	122:6,8,11 166:3	204:1 207:8,9	7:5 22:17 25:11
251:12 257:17	173:3 187:3,4,7,9	226:16 227:11,17	36:7 56:5,9,10,14
263:3 268:9	187:15,20,21	229:9,12,23 230:3	56:17 57:7,12
<b>examinations</b>	188:7,22 227:24	230:8 233:4	58:6 66:4,7,16
12:6	227:25 249:5	239:24 241:5,7,7	67:19,20 68:3,8
<b>examine</b> 33:8	250:9 256:21	245:16 247:19	68:10 70:14 94:4
135:10,13 166:2	<b>excluding</b> 22:25	248:20 251:9,16	94:5,8,10 96:13
166:17 171:9	172:25	251:20 252:9,21	96:21 97:25 98:3
172:16	<b>exclusions</b> 47:4	253:23 254:5	100:14,15 101:2
<b>examined</b> 225:8	187:12	257:20,22,25	102:13 104:10,14
<b>examining</b> 20:19	<b>exclusive</b> 80:12,13	259:4,14 260:5	107:20 108:6,8,8
256:24	<b>exclusively</b>	<b>exhibits</b> 25:15,15	124:5,11,14
<b>example</b> 20:12	147:10	25:16 26:22 50:23	125:13 126:7
22:6 66:10 67:11	<b>excuse</b> 40:11 51:5	62:4 119:21,21	146:8 180:16,22
67:20 75:19 98:3	52:5 158:8 166:9	153:3 158:24	180:24 181:6
98:4 170:22	222:15 241:14	159:2,20,24 160:3	183:5,9,12,16,18
171:10 202:25	242:23	165:1,13 166:3	183:22 184:9,11
209:11 222:9	<b>executed</b> 252:21	169:18 172:13	184:14,16,20,22
<b>examples</b> 11:2	259:24,25 260:1	191:6,9 198:6	185:5 186:9,11,12
<b>exceeded</b> 99:7,7	<b>exercise</b> 14:19	232:1,1,13 233:3	186:13,25 187:4,7
	141:19,22 209:14	233:8 257:4 270:6	187:18 188:13,18

[expenses - february]

Page 23

189:17 190:8,19 190:21 191:16 197:3 204:12,12 204:17,17,19 209:9 216:7,12 220:23 226:19,22 227:5,6,14 254:7 263:13 264:5 269:4 <b>experience</b> 64:10 64:12,13,16,18 65:8 72:13,14 89:6 100:16 101:9 206:20 <b>experiencing</b> 101:12 <b>expert</b> 3:1 5:1 15:7,9,14,17,20 15:21,23,24 16:10 16:13,18 17:4,6,7 17:25 18:1 19:1,3 19:7,15,15 20:3,3 21:7,12,18 22:18 22:20 23:2,3 28:24 29:3,17,19 73:16,20 113:18 130:13,16 156:24 157:1,5,6,7,12 158:16,19,20,21 160:6 212:6,22 236:5,9,10 <b>expert's</b> 13:6 <b>experts</b> 2:2 11:11 13:2,7 14:9 15:19 16:16 17:7 18:3,4 18:5 19:1,4 20:15 20:16 92:1 96:7 170:23 254:7 <b>expert's</b> 205:16 <b>explain</b> 64:3 65:20 66:25 98:20 108:12,21	<b>explained</b> 177:6 <b>explicitly</b> 38:6 45:17 54:10 61:12 <b>explored</b> 43:11 <b>exposure</b> 65:19 <b>express</b> 80:9 <b>expressed</b> 14:25 158:17 198:14 <b>expressing</b> 80:7 <b>extend</b> 143:16 <b>extent</b> 6:14 7:7 14:2 15:15 17:4,5 66:1 80:10,12 85:3,5 93:23 98:5 104:16 149:24 151:19,25 152:11 152:12 162:2 169:1,3 184:11,14 185:15 187:17 192:14,16 193:13 212:24 231:12 241:18 256:12 <b>extra</b> 169:5 <b>extracted</b> 219:22 <b>f</b> <b>f</b> 1:21 54:4 71:11 156:3,3 184:1 185:20 274:1 <b>face</b> 65:12 <b>facilities</b> 123:9,13 151:17 238:24 264:15 <b>facility</b> 50:7 53:3 53:6,25 54:5 84:8 84:10 86:15,18 87:12,18 175:14 175:17,21 176:4,6 176:13,21 177:12 177:18 178:23 193:21 261:14 264:14,17 265:14 265:16 266:12 267:20 268:12	<b>fact</b> 2:9 14:18,19 16:5,11,21 17:1,5 17:5,8,22 22:12 39:16 48:18 50:16 52:9 58:25 59:18 83:25 100:17 104:1,2 107:13 111:20 124:16 135:24 136:6 143:5,9,10,11 156:23 157:8 158:18 159:10 163:24,25 171:1 172:19 173:25 186:11 202:22 205:18 210:22 215:18 221:2,6 225:6 228:1 230:17 234:14 235:5 243:14 246:17 247:10 264:1 <b>factored</b> 238:3 <b>facts</b> 15:1,15,16 15:20 16:12 17:16 17:22,23 18:4 19:6 22:11 166:16 173:13,16 233:20 241:20 251:22 <b>factual</b> 14:20 15:11 16:21 20:13 29:22 148:10,11 148:12 167:2 234:19,23 235:4,5 235:5 238:3,7 268:18 <b>factually</b> 233:21 <b>fair</b> 16:1 18:19 21:16 22:19 34:11 34:14 40:1,5,10 40:12 41:6,14,18 43:13,19,21,24 51:16 53:22 59:1	78:10 88:1 89:16 90:2,4,6 96:7 99:19,22 104:4,18 105:3 107:5,5,17 124:5 136:12 139:7 140:8 153:18 161:20 167:2 170:9 172:20 174:14 180:9 182:25 205:20 213:11 216:15 230:9 232:18 233:21 236:11 <b>fairly</b> 171:6 269:23 <b>fairness</b> 272:19 <b>faith</b> 249:9 <b>fall</b> 231:5 <b>falling</b> 245:2 <b>falls</b> 244:23 <b>familiar</b> 22:15 29:2 60:19,22 128:17 133:24 <b>fan</b> 12:22 <b>far</b> 14:22 19:8 21:18 29:17 30:1 50:10 172:11 174:12 196:9 213:22 235:24 236:2 247:15 <b>farthest</b> 76:4 <b>fashion</b> 192:20 <b>fault</b> 33:3 <b>faulty</b> 16:5,8 <b>favor</b> 215:7 <b>favorably</b> 103:3 <b>favor</b> 55:20 <b>february</b> 40:2,7 40:13,17,24 41:6 41:7 56:7,18,24 57:4 96:16,17,22 125:23 133:1
---	---	---	---

[february - forth]

Page 24

155:1 164:2 167:3 251:23 <b>fee</b> 152:8 208:1,3 208:7 222:1,4 263:8,12 264:9,10 <b>feels</b> 14:6 92:1 94:9 228:8 <b>fees</b> 92:5,8,11 94:6,14 126:9,10 126:11,13 137:5,6 139:23 183:3,3 187:19 192:9,24 204:20 207:22 208:16 220:16,17 220:19,22 221:22 221:22 263:13,18 263:24 264:1,8 <b>feld</b> 9:18 <b>felt</b> 129:18,21 <b>fewer</b> 63:19 <b>fifth</b> 8:14 <b>figure</b> 35:1 39:15 39:16 55:8 79:1 82:13,13,14 89:10 89:17 90:1,5,7 94:21 95:6,6,16 95:16,23,23 116:22 118:5,19 118:23 121:14,20 124:4,14,20 126:20 134:3,9 175:9 190:20 229:14,16 273:6 <b>figures</b> 47:16 76:9 95:22 208:3,13 227:9 <b>file</b> 4:21 219:16 <b>filed</b> 2:10,15 5:2,7 23:17 29:21 35:6 64:24 65:3 119:6 147:15 157:13,21 157:21,24 222:22 231:5 234:8	<b>files</b> 191:7,15 <b>filing</b> 64:13,18 65:7 122:9,11,12 122:14 129:22 130:5 141:25 142:2 184:6 200:4 203:14,18 <b>filings</b> 220:24 <b>fill</b> 33:10 <b>filo</b> 179:19 <b>final</b> 18:24 24:6 74:18 136:23 207:20 273:2 <b>finalized</b> 83:2 <b>finances</b> 153:10 <b>financial</b> 19:3 68:21,22 93:17 119:5 189:20 <b>financials</b> 71:18 <b>financing</b> 126:10 145:1 192:9 <b>find</b> 19:3 51:15 141:22 142:1 228:6 257:19 <b>finding</b> 235:4 <b>findings</b> 263:11 <b>finds</b> 147:21,22 147:22 149:18 <b>fine</b> 109:19 136:17 153:11,15 154:9,12 156:18 211:8 213:20 225:11 257:7 266:4 <b>finger</b> 151:24 <b>finish</b> 43:16 54:17 <b>finished</b> 109:20 <b>finishing</b> 94:20 <b>fire</b> 212:4,15 <b>firm</b> 130:4,19 <b>first</b> 13:14,15 15:9 15:14 21:2 24:19 28:9 31:7,10	39:21,24 42:20 45:18 47:24 48:3 49:4,6 55:11,13 56:6 61:5,6,13,15 61:16 62:9 71:25 75:12 80:14 81:5 82:7 83:15 84:8,9 85:20 88:13,22 95:11 105:14,16 105:20,23,24 112:16 115:14 118:5 121:17 132:3 134:11 139:3 141:16,22 147:12 151:9,23 151:24,25 152:5 158:4 160:5,8 167:11 176:13 177:25 179:17 186:18 191:20 192:4,5,22 194:14 195:7 203:6 207:19 208:13,17 223:10 224:8 227:4,4 234:18,20 234:24 240:7 245:15 250:17 256:2,11 257:22 259:14 263:11 265:25 266:17,19 266:21,24 <b>firsthand</b> 16:21 <b>five</b> 25:21,23 179:9 182:6 266:23 <b>fixed</b> 222:1,4 <b>flat</b> 92:21 <b>flawed</b> 14:14 <b>flaws</b> 17:14 <b>flip</b> 15:13,18 17:2 <b>floor</b> 10:2 <b>flow</b> 106:5 153:4	<b>focus</b> 167:23 <b>focused</b> 212:9 216:15 246:25 <b>focusing</b> 146:10 146:17 151:4,5 165:5 250:18 <b>folks</b> 249:17 <b>follow</b> 157:23 194:11 227:21 <b>followed</b> 17:15 <b>following</b> 85:16 86:11 157:6 158:3 167:25 180:23 227:8 241:25 <b>follows</b> 186:2 <b>foot</b> 239:25 <b>footnote</b> 26:21 70:23,24 71:2 72:12 135:18 149:13,13 252:8 253:10,13 258:15 258:16,17 261:22 <b>footnotes</b> 238:19 238:20 252:3 261:23 <b>forecast</b> 101:6 134:14 <b>forecasts</b> 100:8 101:2 259:21 <b>foregoing</b> 274:3 <b>forget</b> 182:24 196:5 <b>form</b> 51:22,25 66:22 153:1 <b>formal</b> 171:15 <b>formed</b> 50:17 84:14 123:7 <b>forming</b> 87:1,22 <b>formula</b> 267:19 <b>forth</b> 24:5 75:8,9 130:24 131:7 167:18,19 245:7 249:9
--	--	---	---

[fortunately - generate]

Page 25

<b>fortunately</b> 125:24	223:15,17,20 224:14,23 225:1	83:16 122:9 143:11,15 151:25	120:13 128:6
<b>forward</b> 31:24 32:13,21 33:11,16 36:13 43:8,25 44:8 45:2 63:3 67:14 68:20 71:10 74:8,9 76:21 99:4 99:9 100:8,20 101:10,23,24,25 102:9 104:17 107:14,18 110:17 111:23 112:12 131:14 136:4 186:5 193:16 195:22 249:20	225:11,19 226:1,4 229:2,18 263:4,5 271:23 272:7 <b>fox's</b> 20:1 <b>fraction</b> 197:5 <b>franchise</b> 189:14 189:17 <b>frankly</b> 12:1,5 247:6 <b>free</b> 93:8 <b>friedmann</b> 8:18 <b>front</b> 19:11 29:10 30:5,25 31:15 32:8 36:16,17,19 47:25 50:22 52:15 52:19,25 53:12 58:10 60:16 62:3 62:15 70:6 75:6 75:15 76:3 85:6,7 89:15,24 115:13 115:15,22 119:22 122:20,21 141:14 160:11 161:7 167:17 174:21 209:2 226:14 237:17 245:22 256:16 257:20	<b>funding</b> 139:12 152:4 179:14 268:23 <b>funds</b> 149:8 152:3 152:15,24 258:13 <b>further</b> 3:2 5:18 6:1,8 98:9 112:21 135:3 219:13 224:15,24 <b>furtherance</b> 56:10 57:13 58:6 70:15 96:14 <b>future</b> 123:3 149:14 230:25 258:11 <b>fuzzier</b> 66:9	132:2,4,23 133:11 135:3,5,23 136:12 136:14,16,18 153:18,21 154:2,8 154:10 155:4,6,16 155:19 157:14 158:13 159:3,8,12 159:21,23 160:2 162:3,20 165:8,17 165:20,22 166:12 177:5 181:10,23 182:7 187:24 191:7,10 194:19 198:10 209:13,22 213:6 222:24 223:4 225:4 226:7 226:12 232:5,16 232:24 233:2
<b>found</b> 140:23 <b>foundation</b> 109:5 181:11,13 <b>four</b> 63:5,9 66:8 66:23,25 67:7 73:21 102:20 111:21 178:17 179:15,23 180:3 181:5 185:24 193:18 197:23 198:20 240:25 241:4 267:1 <b>fourth</b> 238:13 252:2 <b>fox</b> 9:7 12:16,16 53:19 73:5,5 85:17,21 86:20 88:12 97:12,13 98:12,14 109:6,19 109:22 110:15 112:21 113:5,7 151:22,23 152:17 152:19,22,24 153:3,9,12,14 162:6 163:21,23 164:6,9,16 216:20 216:21,21 223:1,7	58:10 60:16 62:3 62:15 70:6 75:6 75:15 76:3 85:6,7 89:15,24 115:13 115:15,22 119:22 122:20,21 141:14 160:11 161:7 167:17 174:21 209:2 226:14 237:17 245:22 256:16 257:20 <b>full</b> 42:15 49:16 56:2 63:2 88:25 161:18 162:16 214:9 230:13,14 241:1 256:13 257:5,13 <b>fully</b> 88:23,24 122:7 141:24 199:5,9,24 <b>fund</b> 263:20 <b>fundamentally</b> 145:12 <b>funded</b> 35:15 49:10,12,13,15	<b>g</b> <b>g</b> 11:1 156:3 158:8 158:11 <b>gain</b> 111:13 <b>game</b> 53:22 <b>gander</b> 20:11 <b>gayda</b> 10:12 <b>gender</b> 8:25 11:8,9,13 13:10 13:15,17,24 14:3 14:5 16:2,4,14,20 17:9 18:2,8 19:16 19:23 20:4,9 24:25 25:3,7,9 26:15,18 27:6 30:14,19,22 51:8 51:13 60:12 62:25 65:23 70:3,5 71:19 72:6 74:22 75:1 86:23 96:24 97:14 98:15 108:23 109:1,3,24 110:2,13 113:1 114:17,19,22,25	235:1 236:3,7,14 236:16,20 237:12 237:16 240:9,11 240:13 241:5,14 241:16 242:5,9,13 245:12,16 246:21 248:19 250:14,20 251:2,4,10,13 252:10 253:23 254:3 257:1,8,12 257:15 263:1 268:10 269:8,11 269:14 270:1 271:5,8,16,19 272:8,14 <b>general</b> 42:22 91:10 211:12 246:2 <b>generally</b> 20:15 20:16 35:14 <b>generate</b> 72:22 99:11,14 111:13 120:19

[generated - griffith]

Page 26

<b>generated</b> 69:3 72:18,21 112:8 141:7 186:9 190:12 <b>generates</b> 120:15 120:18,22 121:6 <b>generating</b> 111:15 111:17 <b>getting</b> 18:21 30:5 34:20 125:11 151:8 170:2 172:22 180:3 236:10 <b>getzler</b> 10:1 <b>give</b> 19:12 55:1 91:20 138:25 169:18 190:6 <b>given</b> 13:21 16:10 19:7,7 20:18 52:16 150:18 158:24 173:22 182:18 194:17 232:8 <b>gives</b> 209:7 <b>giving</b> 18:24 146:2 <b>glb1</b> 197:11 <b>global</b> 61:5 171:21 <b>go</b> 13:25 28:9 30:12 31:24 32:13 32:21 33:11,16 36:13 40:19 42:3 42:15 43:7,8,25 45:2,22 57:6 58:9 59:14 61:21 62:6 63:3 67:14 68:8 68:20 71:10 74:8 74:9,20 75:16 76:21 77:23 86:13 89:23 90:9 94:20 94:21 101:10,24 101:25 104:17	107:17 112:12 113:3 114:16 126:18 130:10 143:18 147:24 151:2,3 156:13 160:4 161:7 164:10,12 166:4 166:16,21 168:5,7 185:23 186:5 195:22 231:1 241:17 245:4 248:23 262:1 266:20 267:7 271:9 273:5 <b>gob</b> 14:24 31:25 32:22 33:13 41:24 42:25,25 45:2,3,3 89:6,11 94:11 99:2,5 100:16,21 101:22 104:1,13 111:25 134:13,18 183:5,8,10,12,14 183:17,19,22,22 186:6,9,10,12,13 186:24 187:4,7,18 196:7 200:8 220:16 <b>god</b> 28:19 73:10 113:12 154:15 155:25 <b>goes</b> 13:13 15:8 17:10 70:24 147:17 153:7,9 209:6 231:11 236:9 243:2 244:2 <b>going</b> 14:5,7,7 18:20 19:9 21:2 22:23 23:10 24:9 25:22 27:19 28:9 35:4,6,7 40:13 44:8 53:12 55:20 55:23 56:11 57:9 57:13 61:23 62:13	63:15 64:4,5,11 66:24 68:6,9 70:15 72:4,7,15 75:9 82:4 84:6 85:15,19 86:10 91:19 97:11 99:3 99:4,4,4,9,10,25 99:25 100:8,20 101:10,23 102:9 104:16,17,24 107:14 108:23 110:17 111:5,6,7 111:10,23 122:21 125:14,16 126:8 126:16 130:8,11 130:22 135:12 136:8,10,11 138:6 138:8 142:13,14 142:15,16,17,18 142:19 143:9,10 143:22 144:7 145:9,19,20,22 153:23 154:3,25 157:14 158:13,23 160:4 163:23 164:10 171:13 172:4 175:16 178:5,6,11,13 181:4,7,8,10,24 186:21 194:7,14 194:25 195:12 209:13 210:16 215:14,14,17 217:24,25 220:23 224:21,23 225:1,9 226:8 232:6 233:13 236:8 239:8,21,25 240:4 242:23 243:6 245:7 246:4 248:13 249:10,16 253:6,9,14 256:12 261:4 262:3 271:5	271:7 272:9 <b>good</b> 11:6,8,15,18 12:12,16,20 30:23 30:24 40:15 57:12 75:2,3,5 97:6 98:13 114:20,21 135:7 138:23 156:21,23 198:3,4 216:23 217:18,19 236:9 249:9 267:10 <b>goods</b> 35:21 217:10 <b>goose</b> 20:11 <b>gordon</b> 213:16 <b>gotshal</b> 8:12,20 11:9 13:17 66:10 138:24 <b>gotshal's</b> 221:22 <b>gotten</b> 49:18,19 140:4 150:8 <b>gottlieb</b> 8:3 11:16 58:2 <b>grand</b> 144:5 <b>grant</b> 19:9 27:9 <b>granted</b> 21:1 23:6 179:20 <b>granting</b> 19:11 <b>great</b> 65:13 75:16 113:5 171:19 <b>greater</b> 53:7 <b>griffith</b> 2:9 13:10 14:21 15:13 16:17 16:20 17:15 24:21 43:13,18 44:10,16 48:19 54:25 55:3 56:13 57:4 58:19 68:14 88:18 89:9 89:16 90:1 98:17 99:8 102:14 106:8 106:25 108:7 118:7 132:6,13,13 139:13,24 141:1
--	--	--	---

[griffith - historical]

Page 27

153:23 155:17,22 156:1,2,4,5,12,19 156:21 157:17 162:9 167:1 171:2 172:3 173:12,15 174:21 177:10,12 177:20 181:12 195:4 196:8,11,14 196:18,24 197:12 197:15,19 198:3,5 198:9,13 202:1 205:10 207:10 210:2 211:1 215:2 216:19,23 222:16 222:17 223:12,22 226:11,13 233:3 234:3 237:15,17 251:12,20 254:6 255:14 256:4,15 257:17 259:20 263:3,5 268:9,11 269:16,20 <b>griffith's</b> 17:3 24:3 43:12 48:13 126:22 132:16 159:8 <b>griffiths</b> 127:6,12 <b>griffith's</b> 58:22 60:9 68:11 78:2,4 78:12 84:4 96:13 98:21 107:19 108:18 109:11 212:20 224:15 <b>gross</b> 35:14 44:7 64:14 67:13 70:10 73:1 76:21 77:17 99:11,11 100:2,3 100:11,12 101:14 101:18 102:11,12 102:12 110:4 124:11 160:18 184:4	<b>grounds</b> 15:9 51:10 136:1 235:19,20,22 237:10 240:16,16 240:24 241:4 242:3 <b>group</b> 71:4 <b>guess</b> 135:8 180:23 <b>guidance</b> 13:1 220:20 <b>guide</b> 128:22 <b>gump</b> 9:18 221:18 242:16 <b>h</b> <b>h</b> 10:5,25 28:21 73:14,14 156:3 226:16 <b>hadley</b> 9:10 <b>half</b> 16:23 23:6 242:24 253:15 272:4,5 <b>hamilton</b> 8:3 11:17 <b>hand</b> 16:16 28:18 32:15 39:2,13 51:3 73:8 113:10 154:13 155:21 162:12 169:4,5 190:16 242:21 245:24 259:4 263:14 269:20 <b>handed</b> 198:5,10 223:22 229:2 269:16 <b>handle</b> 19:23 <b>handled</b> 207:1 <b>handout</b> 20:21 138:5,6 146:21 147:2 <b>hands</b> 242:19 <b>happen</b> 27:2 209:16 212:9	<b>happened</b> 64:8 125:22 126:4 143:11 210:15 225:15 <b>happens</b> 109:10 142:5 146:22 212:23 <b>happy</b> 33:10 37:18 46:15 74:2 166:19 195:21,22 211:6 251:5 <b>hard</b> 56:1 190:4 228:2 244:9 <b>hauer</b> 9:18 <b>haven't</b> 58:5 72:7 96:12 202:23 212:7,11,14 216:11 <b>head</b> 221:19 <b>heading</b> 74:15 85:13,14,23,25 86:9 87:10 204:11 <b>hear</b> 11:24 15:16 18:22 27:14,22 96:9 136:13 153:23,24 174:3 272:1 <b>heard</b> 28:3 138:10 165:24 171:8 230:21 232:9 240:13 <b>hearing</b> 2:1,2,5,14 2:18 3:1,11,20 4:4 4:12,20 5:5,7,10 5:17,25 6:8,18 7:1 7:11 31:3 121:1 143:14 153:25 156:9 166:23 171:23 173:24 245:8 249:10,17 <b>hearsay</b> 172:7 <b>heinrich</b> 196:15 197:3,18	<b>help</b> 23:12 28:19 73:9 94:4 113:11 154:13,15 155:24 217:8 <b>helpful</b> 16:6 23:2 <b>helping</b> 130:5 <b>helps</b> 18:1 <b>henrich</b> 10:1,5 14:12 73:4,6,11 73:14,14,15,20,24 74:2,4,6,25 75:2 82:5 86:25 89:3 91:23 97:4,6,7,18 98:11,13 102:9,12 109:9,10 110:1,3 110:16,21,25 111:4,12,22,24 112:2,17,19,23 119:2 <b>he's</b> 85:19 86:20 86:22 109:3 209:15,17 212:21 212:21,22,25 213:1,2,6 223:4,5 223:6,15,19 225:5 225:15 232:20 236:9 272:21,22 <b>hiding</b> 37:19 <b>high</b> 62:20 <b>higher</b> 34:8 35:16 41:22 59:24 100:18 104:25 107:14 187:8,9,20 <b>highlighted</b> 35:9 35:13 53:16 81:22 87:14,16 167:22 <b>highlighting</b> 242:20 <b>highly</b> 206:20 259:16 <b>hired</b> 203:6 <b>historical</b> 71:7,18 72:13,14
--	--	--	--

[hit - included]

Page 28

<b>hit</b> 20:4,5 <b>hitting</b> 226:7 <b>hold</b> 36:1 62:16 <b>holders</b> 2:1,18 3:3 256:23 263:14 <b>holding</b> 71:3 <b>holdings</b> 1:7 2:16 11:7 138:22 <b>holste</b> 10:13 <b>home</b> 121:9 189:1 189:2,8,18 190:13 217:1 <b>hon</b> 1:22 <b>honestly</b> 270:9 <b>honor</b> 11:8,13,15 12:9,12,14,16 13:12,15,16,19 14:5 16:2 17:10 18:2,8,17 19:16 20:20,21 21:1,2 22:3,15,23 23:6 23:10 24:15 25:3 25:12 26:13,20 27:6,24 28:7,12 29:8 30:8,11,14 30:16 49:25 51:9 51:13 53:19 60:13 60:23 61:24 70:1 70:3 71:20,22 72:6 73:5 74:22 74:23 85:17 86:6 86:20 88:12 96:25 97:15 108:23 109:19,22,24 110:15 112:7 113:7,22 114:17 114:22 120:13 128:8 133:2,11 135:3,5,9,23 137:23 138:17,23 139:7,8,18 140:23 141:4,12,16,18 144:14 145:6,10	146:11,20,25 147:7,21,22 149:12,17,23 150:1,2,15,25 151:22 153:19 154:2,10 155:4,11 155:15,16,19 156:12,15 157:14 158:13,17 159:5,8 160:4 162:23 163:21 164:13,16 164:24,25 165:2 165:11,14 166:1,5 166:8,11,19 167:7 167:13 169:20 170:6 171:14 172:2 173:4,8 174:7,17 177:6,20 181:10,24 182:7 182:16 191:11 194:23 196:1,2,8 197:22 198:2 209:13 212:19 213:6,11 214:1 223:20 224:14 225:16,20 226:4 229:18 232:6,9 235:16 236:20 237:10 239:23 240:11,14,15,17 241:5,24 242:10 242:11,15 243:13 243:17 245:3,19 246:15,22 247:2 247:16 248:6,10 248:20 249:15,18 249:18 250:14,21 250:22,25 252:25 257:2,3,9 259:15 262:24 263:1 269:9 270:1,16 271:16,19 272:8,9 272:10,15,19	273:12,15 <b>honor's</b> 93:5 249:12 <b>hoo</b> 10:14 <b>horse</b> 141:21 <b>houlihan</b> 221:18 222:7 <b>hour</b> 269:18 <b>housekeeping</b> 30:7 <b>how'd</b> 100:5 <b>huge</b> 141:12 <b>hundred</b> 65:6 69:7 <b>hundreds</b> 64:9 65:9 200:2 206:24 <b>hwangpo</b> 8:17 <b>hyde</b> 7:25 274:3,8 <b>hypothetical</b> 128:3 193:2,3,4,8 195:1	<b>implied</b> 163:10 <b>implies</b> 71:8 170:10 <b>imply</b> 169:12 <b>important</b> 22:22 213:10 <b>imposition</b> 179:15 <b>imprecise</b> 41:19 <b>impression</b> 15:6 <b>improper</b> 26:24 248:16 <b>improperly</b> 149:18 <b>improve</b> 93:13 <b>improvement</b> 189:18 <b>improvements</b> 168:13 <b>inaccurate</b> 228:22 <b>inadequate</b> 142:7 <b>inappropriate</b> 242:4 <b>include</b> 34:12 36:13,21 37:4 38:7 43:4 45:12 45:23 55:12 60:3 60:6 65:20 82:11 86:19 87:22,23 95:8 102:13 105:11 106:21 121:9,11 122:3 123:20,21 125:13 127:6,8,9,10 129:19 149:8,8 168:22,24 179:3,3 188:12,16,19 189:2,5,8,11,14 189:20,21,23,25 190:2,25 191:1,2 191:15 204:20 219:17 262:13 <b>included</b> 21:14 23:8,9 34:15
		<b>i</b>	
		<b>identical</b> 239:17 <b>identification</b> 251:19 <b>identified</b> 79:9 100:7 108:7 <b>ignores</b> 35:15 107:13 <b>ignoring</b> 33:25 <b>ii</b> 2:21 3:5,15,24 7:17 <b>iii</b> 179:11 181:15 <b>illustration</b> 52:8 <b>illustrative</b> 239:6 239:15 259:23 <b>impact</b> 146:23 <b>impeach</b> 223:4 244:25 <b>impeachment</b> 223:16,18 <b>implicitly</b> 54:11	

[included - insignificant]

Page 29

38:17 44:21 45:17 45:20 48:17 59:21 67:20 69:10 78:16 78:20 80:24,25 83:9,12 94:6 106:1 114:4 118:19 122:15 123:23 124:10 126:11,13,14 136:5,5 142:23 182:25 183:18 188:20,21,23,24 188:24,25 189:17 190:7 192:3,7,17 204:13 205:1,14 216:8,25 217:21 218:1,8 220:24 221:9,17,18 225:23 256:4,21 261:13 265:12,15 265:17,20 269:2 <b>includes</b> 20:10 38:16 45:1,25 47:6 49:4 53:5,18 81:10 94:3 97:21 98:1 124:14 137:4 137:5 151:16 168:10 192:21 205:18 214:4 263:23 <b>including</b> 30:9 36:6 52:3 121:18 122:10 125:11 143:12 159:17 179:18 195:17 209:8 214:3 222:3 222:21 240:1 255:23 260:8 <b>inclusion</b> 121:23 205:11 <b>incomplete</b> 37:13 240:25 246:10	<b>inconsistent</b> 223:5 <b>incorporated</b> 100:10 103:19 108:7 112:12 124:1 155:8 <b>incorporates</b> 117:19 <b>incorrect</b> 201:4,8 201:17 <b>incremental</b> 99:14 <b>incumbent</b> 179:16 <b>incur</b> 256:1 <b>incurred</b> 56:5,10 56:17 57:7,12 58:6 70:15 96:13 100:24 101:3,5 125:14 133:9 180:22,24,25 184:22 215:14 220:22 264:5 <b>incurs</b> 104:20 <b>indenture</b> 6:10 7:3,12 9:3 <b>indentured</b> 12:18 222:19 <b>independent</b> 42:11 46:3 88:1 96:12 117:6,11,16 124:19 125:2 242:3 258:6 <b>independently</b> 42:18 71:13 110:3 <b>indicate</b> 262:16 <b>indicated</b> 36:3 84:7 85:4 94:2 216:24 <b>indicates</b> 125:9 262:11 <b>indication</b> 241:3 243:21 258:10 <b>indicators</b> 214:2 <b>indirect</b> 124:11 125:11	<b>indiscernible</b> 13:11 16:10 20:24 21:1 23:17 24:11 25:16 26:19 27:1 30:19 50:1,11 51:4 54:12 69:4 69:23 75:13 85:18 85:24 97:1 108:13 114:25 137:4 140:1 141:13 144:9 145:3 147:3 147:9 150:24 152:20 157:15 163:24 170:7 171:22,23 174:7 176:6 180:16 182:9,22 193:18 203:20 204:20 207:7,21 208:14 209:7,24,25 212:13 213:4,9,17 213:21 214:19 215:3 216:22 222:24 223:2,5 225:24 226:6 227:14,25 231:8 231:13 232:7,15 232:20 233:25 234:1,2,11 235:2 235:21,24,24 236:4,12,17,23 237:13 240:5,8,14 240:17 241:13 242:11,11,12,18 243:20,21 244:12 244:15,23 245:21 246:5,19 248:2,3 248:8,9 250:21,23 252:18,23,25 255:3,5 257:5,19 257:21,22 258:7 258:12,17 259:2 259:10,20 260:12	261:13,14,20 262:2,9 263:6 264:12 265:21 266:2,9 267:6,8 267:22 269:12,13 269:14,15,21 270:2,17,20,25 272:17,17,18,23 273:10 <b>inducement</b> 247:14 <b>inducing</b> 247:13 <b>indulged</b> 167:13 <b>indulgence</b> 20:5 <b>industrial</b> 117:3 <b>ineligible</b> 38:16 91:18 162:8 <b>inequitably</b> 241:21 <b>inform</b> 130:13,15 139:14 238:7 <b>information</b> 71:2 117:7,20 124:21 125:1 158:4 181:14 203:4 242:20 245:20 258:7 259:9,10,21 260:20 <b>informational</b> 258:3 <b>informed</b> 46:1 55:22 <b>informing</b> 243:17 <b>initial</b> 83:21 234:6 234:7 247:13 <b>initially</b> 235:10 <b>innoval</b> 189:23 190:15 216:25 <b>inquiry</b> 84:4 <b>insider</b> 179:18 <b>insignificant</b> 29:22
--	---	---	---

<b>instance</b> 199:22	23:20,22 24:1	160:23 163:5,17	<b>isolated</b> 220:22
<b>instructed</b> 45:14	28:1 31:24 33:11	168:9,11,12,14,23	<b>issue</b> 13:11 16:9
<b>instructions</b> 17:16	33:12,13 34:5	169:8,12 171:12	20:13,13 22:13
<b>insurance</b> 122:17	35:3,14,16,19	172:6,14 174:13	26:7 28:9 147:18
123:16,18	36:5 37:8,23 38:4	175:4,20 176:24	165:15 166:5,13
<b>intend</b> 191:11	38:12,17 39:5,15	177:4 180:2 181:8	167:4 174:11
<b>intended</b> 98:25	39:16 40:9 41:23	190:11,14,16	191:4 232:18
258:4	41:25 42:16,25	201:19 202:20	238:9 245:9 248:5
<b>intention</b> 249:11	43:9 44:6,14 45:2	203:3,7 204:6,13	249:4,23
<b>intents</b> 24:8	45:5 48:19 59:1	205:12,12,16,19	<b>issued</b> 31:13
<b>inter</b> 247:20	63:5,15,25 64:1,7	205:22,23 206:1,2	<b>issues</b> 12:2,23
<b>interest</b> 54:9,13	64:10,23 66:2,3	206:3,6,12 214:3	19:18 30:9 153:24
54:15,20 55:4,5	67:6 70:24 71:3,4	217:6,9,12,17,23	166:21
55:13 60:5 88:9	72:1,10 74:9,9	218:3,4 229:24	<b>issuing</b> 39:20
88:10,19,21,25	76:11,21 77:2,2,7	230:5,7,9 242:22	<b>it'd</b> 134:24
95:10,11 106:8,12	77:8,17,17,18,22	252:8,22 254:22	<b>item</b> 23:25 54:5
106:13,15,19	77:24 78:5,7,16	254:25 255:7	60:17 98:8 103:21
126:10,14 127:8	78:20 89:5,10,11	262:10,12 264:23	183:8
127:10 129:15	89:17,21 90:8,12	265:24 266:25	<b>items</b> 45:18,23
145:21 192:4,9,21	90:12,17,19 91:11	267:14	48:17 59:21 81:24
192:24 195:2,7	91:12,13,16,17	<b>investigation</b>	87:21 120:8 136:5
211:7 255:21,24	97:19,22 98:2,16	234:19 235:4,6	218:9 219:11,13
255:25 256:12	98:17,21,22 99:5	<b>investment</b> 260:9	227:24
258:10	99:10,14,17,20,21	<b>investments</b> 2:6	<b>it'd</b> 272:4
<b>interested</b> 153:10	99:24 100:12,16	2:11 4:13 6:1	<b>it's</b> 52:22 53:22
<b>interpret</b> 171:24	100:21 101:14	258:13	55:7 57:16 60:15
174:1,10	103:22 104:13	<b>involved</b> 22:15	61:5 62:8,9,9,11
<b>interpretation</b>	105:8 106:2,5	31:7,10 57:22	62:13,17 64:19
20:12 80:23 163:9	107:1,6,13,17	164:7 179:7	66:24 67:13 74:7
164:19 165:4,6	110:17,23 111:11	182:24 199:16	76:18 77:23 78:1
<b>interpreted</b> 24:14	111:13,16 115:6,8	212:1,3 213:1	78:4 86:4,5,5 87:9
134:17	115:11,12,21	<b>involves</b> 23:23	88:13 102:9 103:6
<b>interpreting</b>	116:1,8,11,13,24	<b>involving</b> 21:5	103:6 104:23
169:20,22,25	117:22 118:4,5,6	65:9	105:14,20 106:7
170:1 171:3	118:13,14 119:10	<b>ironically</b> 185:24	106:15 112:13
<b>interrupt</b> 18:20	119:14,16 120:16	<b>irrelevant</b> 54:16	198:17 201:21
97:11 167:9	120:18,23 121:7	55:7 81:5 84:21	207:9 209:16,22
<b>introduce</b> 13:18	124:4,12 129:10	88:6 90:21 209:22	209:24 210:9,12
<b>invade</b> 142:19	129:14,19,20	213:23 243:16	210:15 213:10,23
144:1,8 152:8	130:5,20 131:22	<b>isn't</b> 91:5 104:18	214:17 215:24,24
<b>invariably</b> 21:7	132:4,5,14,16,19	213:24 214:8	217:9,11 218:20
<b>inventory</b> 18:18	133:6 134:13,14	244:18,18	219:4 223:1,18
21:13,21,22 22:10	134:14 160:6,20		225:7,13 228:22

232:12 236:11,11 237:1,5,6,8,11 238:13 239:24 240:3,24,24 242:3 242:4,5,9 243:5 243:19 244:9,14 244:22 245:12 246:9,10 247:4,18 247:23 248:2,4,12 248:13,14,15 251:16 252:17 256:1 257:22,22 258:17,21 260:23 261:2 265:15,16 265:17,20,23 266:3,9,12 267:3 267:17,20,20,21 267:21 <b>i'd</b> 207:7 213:13 223:13 229:1 241:10,24 251:2,4 267:6 272:1 <b>i'll</b> 68:16 75:7 77:21 79:10 82:25 85:22 86:23 206:10 216:18 225:4,7 253:23 254:4 257:1 <b>i'm</b> 54:4,16 55:1 55:22 60:22 62:16 62:22 68:23 69:5 72:7,19 74:2 78:7 82:7 88:21 102:7 105:8 108:23 109:15,19 114:9 115:22 201:22 202:1 209:13 210:21 211:6,6 212:2,6 213:23 215:23 216:2 217:14 219:25 220:7 221:11,11 223:25 224:17,23	225:9 226:8 228:2 229:25 232:6,17 235:4 236:8 242:16 245:19 246:21 248:13 251:5 254:9 257:14 270:18 271:5,7 272:9,12 272:25 <b>i've</b> 56:15 212:1,3 223:22 235:23 236:3 248:17 270:20 <b>j</b> <b>j</b> 2:10 8:8 9:16 10:12 <b>january</b> 56:17 57:4 96:22 155:1 171:18 180:15,19 181:3 210:2 214:3 231:18 247:12 251:15 252:20,21 253:19 260:3 270:5 <b>jared</b> 8:18 <b>jason</b> 10:11 <b>job</b> 204:12,22 206:21 207:2 227:23 <b>joinder</b> 3:11,20 <b>joining</b> 192:22 <b>joint</b> 26:1,22,24 26:24 38:25 50:23 51:24 85:7,10 119:21 153:3,5 179:8 181:17 198:6 204:1 207:9 233:3 241:5,6,7 245:16 248:20 251:20 270:6 <b>jointly</b> 26:16 <b>joseph</b> 9:24 242:15	<b>judge</b> 1:23 20:9 92:23 138:14 140:15 147:2 148:14 153:14 165:17 166:12 174:14 190:18 225:4,5 226:8 232:16 236:8 241:10 242:5,13 246:21 252:9 255:21 273:8,14 <b>judgement</b> 46:1,1 <b>judgment</b> 258:8 <b>judgments</b> 81:1 163:24 <b>judicial</b> 242:19 <b>july</b> 1:16 2:2 31:2 31:20 156:8 159:10 220:4,12 221:16 274:25 <b>june</b> 18:10 31:13 31:17 32:24 39:19 83:3 155:9 156:7 159:9 210:9 215:24 <b>junior</b> 86:15 137:2 139:10 140:11 142:13 178:20 179:19 <b>juxtaposition</b> 81:15 <b>jx</b> 51:3 52:17,20 52:21 53:2 81:13 81:16,18 87:10 119:20 204:9 207:11 238:13 <b>jx004-8</b> 204:9 <b>jx008-12</b> 262:6 <b>jx08</b> 247:17 <b>jx08-1</b> 259:14 <b>jx08-12</b> 262:5 <b>jx8-5</b> 252:3	<b>k</b> <b>k</b> 206:24 <b>keep</b> 17:17 121:4 260:21 <b>kenmore</b> 190:2 217:1 <b>kept</b> 67:10 236:10 <b>key</b> 23:23 167:17 <b>kidding</b> 39:12 <b>kim</b> 10:14 <b>kind</b> 49:19 61:5 141:14,20 145:11 150:4 190:15 231:11 <b>knew</b> 129:16 225:22 <b>know</b> 13:2 14:7 20:7,13,18 22:14 24:20 32:19 34:17 38:10,14 41:3,9 41:11 45:16 46:14 50:4,9 51:21 53:24 57:16,20 75:9 86:21 93:18 97:21 98:1,14 99:16 112:7 121:2 121:4 122:2 123:5 129:24 137:20 138:2 139:22 140:2,17,20,20 144:9 145:1,8 147:5 148:11 149:6 150:3,6,6,7 150:8 152:6 165:23 166:1 171:8,8 172:15,15 173:13 174:2 175:24 177:15 183:20 187:5,15 187:16,21,23 188:2,3,4,6,7 189:16 195:25 196:20 197:20
---	---	---	---

198:23 199:25 204:24 206:2 213:10 219:18,25 221:16,19 225:20 233:15 236:1 238:8 241:17 242:16 246:16 249:15 250:7 255:9 257:5,12 270:24 272:5,17 273:1 <b>knowable</b> 122:13 126:1 <b>knowing</b> 14:6 113:20 155:8 <b>knowledgably</b> 181:21 <b>knowledge</b> 16:21 139:13 164:3 196:22 200:10 212:23 225:14 230:24,25 233:10 252:19 <b>knowledgeable</b> 202:19 226:6 <b>known</b> 122:11 126:1 <b>knows</b> 16:15 225:15 247:15 <b>koch</b> 10:15 <b>kreller</b> 5:2,7 9:15 12:14 <b>kumho</b> 15:7	167:22 169:15 258:8 <b>lanier</b> 10:16 <b>large</b> 69:5 203:4 <b>largely</b> 111:20 <b>larger</b> 42:3 85:6 116:21 <b>late</b> 144:25 <b>law</b> 4:4,12,21 5:10 5:17,25 6:8 7:11 7:11 <b>lawyer</b> 22:1 <b>lay</b> 23:8 212:21,25 237:13 251:5 <b>laying</b> 107:25 <b>lazard</b> 222:6 <b>lc</b> 53:3,6 54:5 86:15,18 87:12,18 175:13,17,21 177:12 178:1,2 179:19 238:23 <b>lc's</b> 178:2 <b>lcs</b> 88:20,23,25 122:16 176:5 178:5 179:3,4,4 193:19 231:9 264:22 <b>leading</b> 72:8 166:24 169:24 203:13,17,19 209:16 229:18 <b>leads</b> 125:18 <b>learned</b> 163:12 <b>leave</b> 4:20 99:13 138:18,19 165:4 181:24 <b>led</b> 165:4 <b>ledanski</b> 7:25 274:3,8 <b>ledger</b> 39:4,15 42:22 47:6 77:8 89:17,20 90:12 162:21	<b>lee</b> 272:3,16 <b>left</b> 77:23 79:13 126:2 142:3 198:6 201:12 269:20 <b>legal</b> 17:21 19:6 19:19 20:7,13,19 21:9,13 23:9,11 24:15 107:25 170:7 183:2 194:19 243:13,15 258:6 274:20 <b>legible</b> 182:21,22 <b>lend</b> 66:2 91:19 <b>lender</b> 65:25 66:1 92:14 93:7 230:6 <b>lenders</b> 57:19 145:3 179:20,21 192:4,22,22 203:6 203:11,14 204:25 205:6 <b>lenders'</b> 203:8 <b>lender's</b> 91:18 <b>lending</b> 129:17 152:2 <b>lesser</b> 162:25 <b>letter</b> 49:17,21 50:6 83:23 171:15 171:15,17,18 200:19 251:3 264:13,15 268:12 <b>letters</b> 19:20 49:5 49:8 50:14 52:3 59:12 60:2 83:9 83:15,19 84:1 87:23 95:7 122:3 123:6,16 127:7,9 136:4 199:3,4,9 199:10,23 200:17 200:23 230:16 255:14,15 265:1,6 266:6 <b>let's</b> 200:25 204:8 206:14 257:19	266:20 <b>level</b> 11:25 17:12 36:6 43:5 57:17 66:10 69:3,9,9 98:7 169:6,7 184:20 185:1,5 186:11,20 187:4 188:6 190:24 214:22 216:6,11 <b>levels</b> 168:1 <b>liabilities</b> 261:11 <b>liability</b> 54:2 200:20,20,22 231:10 <b>liberty</b> 8:5 9:12 <b>license</b> 183:3 <b>lien</b> 2:1,18,19,23 3:3,4,7,12,16,21 3:24 4:5,6,14 5:18 5:19 6:2,18,20 20:12 28:10 40:2 40:6,12,17 41:15 42:13 45:17,18,19 49:4,6 55:13 57:19,25 61:6,10 61:11,13,15 67:18 80:13,14 81:5 83:15 84:8,9 88:22 95:11 105:14,14,16,20 105:20,25 106:1 107:24 112:16 142:5,16,20,23 143:8,17,20 144:13 146:23 150:9 151:13,17 151:23,24 152:1,5 152:10,14,22 157:19 158:3 173:18 175:8 176:6,13,24 177:1 177:25 179:2,18 192:4,5,22 194:14
<b>l</b>	<b>l</b> 9:23,24 28:21 154:20 <b>l.p.</b> 2:5,11 4:20,22 5:3,8,11 <b>labeled</b> 182:5 <b>lack</b> 14:14 181:11 <b>laid</b> 201:7 <b>language</b> 35:13 150:25 165:5		

195:7,13,18 203:6 223:10,11 224:8,9 233:22 242:25 256:2,11,23 263:12,14 264:3 264:22 265:12,25 266:16,17,19,21 266:22,23,24,25 267:1 <b>lienholder's</b> 15:12 45:24 <b>lienholders</b> 14:18 16:16 18:23 20:16 35:20 50:3 92:6 135:6,24 136:1 <b>liens</b> 44:23 66:15 105:23 140:18 141:18 142:6 147:14 148:1,2,4 150:20 151:11 175:14 178:20 194:12,13,17 195:17,20 262:14 262:18 264:10 <b>lien's</b> 80:11 <b>light</b> 135:23 <b>lii</b> 10:17 <b>limine</b> 2:7 11:12 11:19 12:21,23 14:1 15:4 23:5 27:5 <b>limitation</b> 143:24 <b>limited</b> 15:21 137:5 <b>line</b> 36:19 37:22 48:6 78:9 98:8 103:21 111:11 201:15,23 202:4,6 202:8,11 207:24 219:10,13 223:24 239:5 268:11 <b>lines</b> 48:19 52:12	<b>liquidate</b> 130:5,6 130:10 <b>liquidated</b> 99:3 200:2 206:23 <b>liquidating</b> 130:20 <b>liquidation</b> 56:2 97:24 107:11,11 107:15 108:5 115:2,10 117:3,9 118:2,17 124:1,12 125:5,7,9,17,20 125:22,25 126:12 131:21 133:14,19 181:9 195:6,12 197:16 199:4,8,9 199:23 200:13 204:20 206:17 207:1,6,10,20,22 208:16 209:15 210:5,10,14 211:3 211:11,16,19,22 212:5,6,24 213:2 213:8 214:10 230:12,13,14 231:17,20,22 239:22 242:24 253:7,10,14 255:4 <b>liquidations</b> 64:23 211:12 212:22 <b>liquidator</b> 206:15 208:1,3,7 <b>liquidators</b> 210:23 <b>liquidity</b> 193:25 <b>list</b> 25:15 159:24 188:15 218:8 222:7,10 241:5 248:20 <b>listed</b> 79:8 81:22 81:24 82:1 87:19 218:18 221:22,23 222:9	<b>listen</b> 19:13 140:10 173:25 <b>listening</b> 84:3 <b>lists</b> 79:1 80:1 81:21 82:15 120:5 <b>literally</b> 272:20 <b>litigating</b> 247:3 <b>litigation</b> 129:23 199:10 246:24,25 260:12,15 <b>little</b> 18:24 28:4 47:23 52:15 104:24,25 147:9 169:2 249:19,24 <b>liubicic</b> 9:16 12:12,13 97:2,2,5 97:13,15 98:9 128:8,10 132:20 133:2 196:2 209:19,21,25 212:19 213:18 214:1 <b>live</b> 50:20 52:7 <b>llc</b> 92:21 <b>llcs</b> 50:10 <b>llp</b> 8:3,12,20 9:1 9:10,18 11:17 <b>loan</b> 258:11 265:2 265:5,21 266:1,2 266:23 267:22,22 <b>location</b> 111:3 <b>locations</b> 206:24 <b>log</b> 242:18 <b>logic</b> 175:25 176:3 259:15 <b>logical</b> 142:9 <b>lokey</b> 221:18 222:7 <b>long</b> 112:24 193:24 228:8 230:25 249:16 260:23	<b>look</b> 23:20 24:17 32:2 35:4,23 47:23 52:14 55:10 62:3 77:22 89:13 101:19,20 103:17 105:23 107:23 108:1 112:3 121:16 132:1 139:16 140:12 141:17 142:3,10 143:21 151:3 153:10 157:9,10 160:10 161:8,9 162:12 167:13 168:15 172:20 175:7 176:1,20 178:16,18 179:13 182:1 183:24,25 186:8 188:10 193:17 196:9 198:8 203:25 204:5 207:8,23 209:1 211:8 215:21 218:12 226:7 234:16 236:15 247:17 261:2 <b>looked</b> 21:4 52:13 61:12 68:14 98:25 101:1 103:8 104:2 104:4,4 108:2 112:5 173:12 218:14 260:6 <b>looking</b> 15:6 22:9 32:2,4 39:13 46:16 62:8 67:11 75:12 99:16 100:25 105:17 115:23 121:17 141:15 148:13 161:6 168:17 173:13 180:1 183:8 186:4
--	--	---	--

187:11,11 201:22 221:20 228:2 234:10 246:21 247:23 250:17 257:25 258:15,16 259:14 261:22 <b>looks</b> 62:6 <b>loose</b> 229:3 <b>losers</b> 69:23 <b>loss</b> 121:1 151:1,1 <b>lot</b> 15:2 17:18 19:14 61:18 68:13 147:6 180:24 221:4,5,9 <b>loud</b> 238:19 <b>low</b> 132:19 <b>lower</b> 37:24 39:1 39:13 51:3 63:20 104:24 116:15 125:7 206:12 214:20 <b>lp</b> 12:14 <b>lubicic</b> 197:22 198:2 <b>lunch</b> 136:11,19 153:22 269:18 <b>l's</b> 227:13	<b>majority</b> 215:19 230:21 <b>making</b> 18:9,9 27:19 99:23 112:15 150:3 213:8 223:12 246:23 <b>man</b> 62:12 152:20 252:9 272:11,13 272:15,19,25 273:3,9,12,14,15 <b>management</b> 106:4 117:20 124:23 129:24,25 130:21 <b>manges</b> 8:12,20 11:9 13:17 <b>manner</b> 259:25 <b>march</b> 134:16 <b>margin</b> 34:3,11 71:7,9 72:5 76:21 77:2 99:11,12,13 100:2,3,11 101:14 101:18 110:4 112:11 184:4,15 186:10 <b>margins</b> 19:14 71:18 211:10 212:15 <b>maria</b> 10:9 <b>marie</b> 10:22 <b>marked</b> 233:3 245:12 251:19 <b>market</b> 18:19 40:1,5,10,12 41:6 41:14,18 43:14,19 43:22,24 59:1 88:1 89:16 90:2,4 90:6 99:20,22 107:5,17 161:20 167:3 180:9 205:20 216:15 232:19 233:21	<b>market's</b> 213:21 <b>markup</b> 71:8 <b>mart</b> 206:24 <b>marti</b> 5:1 77:24 113:8 114:18 128:9 132:22 <b>match</b> 208:13 <b>material</b> 41:20 157:12 177:23 <b>materially</b> 71:9 111:16 <b>materials</b> 14:8 40:19 <b>math</b> 17:15 67:12 77:11,13,20 82:4 82:10,24,25 90:17 91:3 127:13,16 180:4 255:9 268:5 268:6,17 <b>mathematically</b> 127:2 <b>matter</b> 1:5 14:10 14:17 19:3 20:7 23:9 82:4,10 93:1 105:19,22 170:3 173:6 197:1 244:24 245:11 269:3 <b>matters</b> 29:6 113:19 154:23 156:6,10 159:10 <b>matthew</b> 10:15 <b>maximization</b> 195:11 <b>maximize</b> 194:4 <b>maximizing</b> 193:25 <b>mccloy</b> 9:10 <b>mean</b> 20:10 21:23 25:1 42:15 66:2 67:7 103:6 108:3 108:12 110:9 111:7 132:12	134:3,17 145:23 148:14 149:19 150:2 165:23 171:7 175:13 176:18 181:2,2,19 195:15 196:20 209:15 210:15 213:22 217:5 230:6 232:17,18 262:11 264:5 272:19 <b>meaning</b> 48:16 166:25 167:1,18 167:19 178:23 <b>means</b> 134:10 143:6 167:12 169:17 <b>meant</b> 66:25 83:11 131:24,25 134:3 145:25 148:19 174:1 228:24 <b>measure</b> 65:24 67:3,3 <b>measurement</b> 126:1 <b>mediating</b> 22:16 250:4 <b>mediations</b> 250:4 <b>meeting</b> 165:19 166:7 172:5 210:2 259:8,12 260:15 260:18,20,25 <b>meetings</b> 249:8 270:4,13 271:11 <b>meets</b> 178:6 <b>meghji</b> 131:11 170:25 181:16 <b>memorandum</b> 4:4 4:12,21 5:10,17 5:25 6:8 7:11,11 <b>memory</b> 101:7 237:25 270:6,10
<b>m</b>			
<b>m</b> 9:7 10:24 113:16 179:11 181:15 <b>m3</b> 93:16 110:7 199:20 <b>m3's</b> 103:8 <b>madison</b> 10:2 <b>magnitude</b> 99:19 <b>mahkamova</b> 10:18 <b>maintain</b> 35:18 36:5 123:24 132:14,17 <b>maintaining</b> 124:8			

<b>mention</b> 246:12	77:16,24 78:1,4	<b>mind</b> 142:8	144:4,19,23
<b>mentioned</b> 103:12	78:12 79:11,17,20	177:14	145:25 146:6,11
124:25 130:2	79:25 80:1,16	<b>mineola</b> 274:23	146:16,18,20
197:7 199:15	82:6,11,12,14,15	<b>minimum</b> 116:13	147:5,19 148:8
246:17	82:16 83:1,9	128:1 168:21	149:12,23 150:1
<b>mentioning</b> 214:6	84:14 86:14,14,15	181:4 193:2 195:4	150:15,24 151:6
<b>merchandise</b> 64:5	86:18 88:19 90:13	201:3,7,16 215:6	151:15 156:15,20
111:13 207:21	94:9,9,10,18,24	255:25	158:14,17,22
<b>merely</b> 108:14	95:1,7,10,13,16	<b>minor</b> 14:1 17:24	159:4 160:3
<b>met</b> 136:1	96:5,8 101:5,7	73:21 74:18	162:23 164:12,24
<b>method</b> 75:8	102:6,19 103:1	<b>minute</b> 55:18	165:11,13 166:1,8
192:15	104:14 106:8	130:2 206:14	166:11 167:6,11
<b>methodologies</b>	112:8,9,13 118:6	<b>minutes</b> 153:17	167:16 169:25
31:24 98:24	121:14,19,24	200:25	170:6 171:13,21
<b>methodology</b>	122:12 123:7	<b>miscalculated</b>	172:1,7,10,13,19
31:25 66:18 89:12	126:21 127:1,5,7	32:24	172:24 173:3
197:6,16 198:21	127:11,14,14,15	<b>missed</b> 170:8	174:6,17 181:15
201:5,9,17,25	127:24 139:12,22	<b>misstate</b> 187:24	181:24 182:3,10
205:5	141:4 143:13,13	<b>misstates</b> 162:6	182:13,16 186:1,4
<b>metric</b> 214:8	143:14 145:4	162:20	186:16 194:22
<b>mic</b> 140:3	147:20,23 148:5	<b>mistake</b> 228:17	196:1 232:9,12
<b>michael</b> 10:19	150:7 162:3,9,11	229:17	233:25 234:4
<b>microphone</b>	162:13 175:10,18	<b>mistaken</b> 88:22	235:3,16,19
145:24	175:18 176:4,23	<b>mister</b> 89:20	236:22 237:3,7
<b>middle</b> 32:16	177:12 178:2	<b>mittelman</b> 10:19	239:23 240:15
48:10	179:1,25 180:3,4	<b>moelis</b> 271:14	241:13,15,23
<b>midnight</b> 83:3	183:2,3,3,4 184:5	<b>moloney</b> 2:10 8:8	242:8 243:13
<b>milbank</b> 9:10	184:8,9,14 185:2	11:15,16,20 13:6	244:4,7,11,14,21
12:13,15	186:8,15 187:1,22	15:3 20:20,24	245:18,23 246:4,9
<b>mill</b> 145:1	192:3,8,8,8,18,21	22:2,5,13,21 23:4	246:15 247:16
<b>million</b> 21:5 23:24	192:25 194:7,25	23:14 24:23 25:12	248:3,6,9,12,15
23:25 34:8,15,19	200:16 215:7	25:19,21 26:1,4,7	249:6,14,24 250:2
38:16 39:17 44:16	221:18 222:3,13	26:9,12,20 27:11	250:21,25 252:25
44:18 47:2,9,10	226:1 227:4,5	27:16,19,24 28:7	254:1 257:3,18
47:10,13,18,20	231:7 255:19,23	28:12 29:8,13,15	270:16,19 271:3,7
48:12,16,20,25	256:5 261:14,18	30:7 37:14,17	272:9,12
49:5,8,13,21 50:7	263:24 264:8,15	49:25 51:9 61:23	<b>moloney's</b> 20:1
50:17 53:8,25	264:17,22,25	62:2,13 69:25	152:7 166:22
54:24 55:3,13,15	265:4,8,11,17,20	70:9 71:22,24	<b>moloney's</b> 216:24
58:13,19 59:10,18	265:23 266:6,15	72:9 73:2 135:9	<b>moment</b> 35:25
59:21 60:2,5,9,10	266:21,22,23,25	135:12,17,20	171:14 215:22
60:17 65:22 67:13	268:11 269:1,5	137:23 138:1,5,10	<b>moments</b> 83:3
67:17 68:7 69:1,7		138:14,17 141:12	

[monarch - new]

Page 36

<p><b>monarch</b> 189:25 190:15 <b>monark</b> 217:1 <b>money</b> 17:18 49:18 68:12 69:10 69:13 99:23 134:6 143:6 144:15 145:14,15,19 148:15,15 149:15 149:16,18 150:20 151:2 152:12 175:9 183:1,1 185:16 186:9,19 <b>month</b> 133:19,19 133:25 134:20 195:5 197:23 256:3 <b>monthly</b> 134:12 231:11 <b>months</b> 102:20 134:7,15 181:4,5 198:20 <b>morning</b> 11:6,8 11:15,18 12:12,16 12:20 28:16,17 30:23,24 31:18 75:2,3 167:14 268:21 273:11 <b>morphet</b> 10:20 <b>motion</b> 2:1,5,14 2:22 3:6,15,24 4:9 4:17,20 5:22 6:5 6:23 7:1,13,17 11:10,12,19,23 12:1 14:11,13 15:4 16:5 17:3 18:11,23 19:9 20:25 23:5,17,18 24:23 26:13 27:5 27:9 135:25 136:15 141:19 145:12 147:15 153:20 159:4</p>	<p>164:25 166:6 222:18 223:3 <b>motions</b> 11:22 12:21,22 13:1 14:1,6 17:2 18:11 29:1 <b>move</b> 12:8 23:4 82:7 105:9 135:25 141:19 165:14 191:12 212:19 217:8,10 232:17 232:21 271:8 <b>moving</b> 191:22 <b>mull</b> 147:16 <b>multi</b> 69:7 <b>multiple</b> 240:23 <b>multiplier</b> 99:8 <b>murray</b> 5:2 14:13 73:4 79:14,23 93:24 97:16,18 105:8 112:25 113:4,8,13,16,17 113:22,24 114:9 114:12,14,18,20 115:2 116:1 120:15,21 121:16 126:15,19 128:9 128:11,14 132:1 132:22,24 133:12 133:16,20,22,24 134:5,8,11,21,25 206:2,11 213:8 214:2 215:11 254:19 <b>murray's</b> 77:24 95:1 97:21 98:1 200:25 201:3,7,16 202:15 203:21 205:11 215:6 230:21</p>	<p><b>n</b> <b>n</b> 8:1 11:1 73:14 274:1 <b>nacva</b> 128:20,22 <b>name</b> 66:22 73:13 76:6 103:9 113:14 115:17 154:18 <b>name's</b> 98:13 <b>narotam</b> 1:25 <b>narrowly</b> 220:18 <b>natasha</b> 8:17 <b>national</b> 2:6,12 6:9 7:2,12 9:2 12:17 128:17 222:19 <b>nature</b> 16:18 102:15 <b>navigate</b> 23:1 75:7 <b>near</b> 207:24 <b>nearly</b> 14:17 <b>necessarily</b> 45:25 100:23 172:3 177:24 <b>necessary</b> 18:13 35:18 36:4 57:8 57:15 80:17 110:24 123:24 124:8 132:18 191:3 217:9 <b>need</b> 20:6 27:4,22 161:4 167:23 170:16 172:5 173:25 185:23 198:7 216:7 223:13 <b>needed</b> 112:4 <b>negative</b> 58:19 60:9 96:4,5 127:24 <b>negotiated</b> 27:1 65:25</p>	<p><b>negotiating</b> 244:19,20 246:8 <b>negotiation</b> 164:20 246:8,9 248:1 249:8 <b>negotiations</b> 24:4 24:5 163:10,12,15 165:4 233:13 245:4 246:2,3,19 250:6,10 <b>net</b> 32:21 33:17 34:2,5,15,24 39:5 39:16 42:2 43:1 44:7 63:16 64:14 66:17 67:14 68:20 69:10 70:11 90:7 90:12,18 97:23 100:13 108:5 112:11 115:6,10 115:25 116:8 117:9 118:2,13,17 124:1,3,12 125:5 125:7,8,16 131:21 134:13 151:14 196:9 207:16,20 207:25 208:6 230:6 254:22 255:6 <b>network</b> 190:17 217:3 <b>never</b> 44:19 86:20 86:22 99:23 107:16 143:24 193:11,12 205:6 210:15 211:15,18 211:21 212:4 213:1 249:20 266:10 <b>nevertheless</b> 264:21 <b>new</b> 1:2 8:6,15 9:5 9:13,21 10:3 151:20 169:17</p>
---	--	--	---

<p>242:17  <b>newco</b> 85:15  86:10 261:4  <b>nine</b> 26:3 168:1  <b>nolv</b> 97:19,21  98:1 115:9 116:5  116:22 124:14  129:20 131:4,13  131:15 203:22  205:21 206:11  214:4,7,20 216:4  216:8,14 228:24  254:20  <b>nolvs</b> 131:5 205:1  205:1,7 207:5  208:21  <b>nolv's</b> 202:16  203:14  <b>non</b> 78:16,20 98:2  114:3,5 179:18  183:5,8,10 204:17  204:19 227:23  <b>nonconforming</b>  210:23  <b>nonsensical</b>  236:21  <b>normal</b> 68:3  123:19 144:24,25  <b>normalized</b> 101:8  112:3,6  <b>normally</b> 12:23  22:18 144:23  <b>norman</b> 228:8  <b>note</b> 71:7 139:8  173:19 259:4  <b>notebook</b> 30:16  30:25 32:2 35:5  36:17 38:21 42:3  42:4 47:24 50:22  50:25 51:1,2  52:14,15,19,19  55:11 116:20,21  228:7</p>	<p><b>noted</b> 14:23 139:8  140:19  <b>notes</b> 214:2  223:11 224:9  226:9  <b>noteworthy</b> 232:1  <b>notice</b> 44:5  <b>notion</b> 64:7 199:1  <b>notwithstanding</b>  18:25 228:1  271:25  <b>november</b> 84:7  131:20,23,25  134:24 203:20  <b>number</b> 32:5  33:11 34:20 35:8  39:5 43:12,14,19  43:20,21 44:17  45:5 46:22,23  47:1,5,9,14,15,17  48:9,25 49:2  57:20 58:12,22,22  59:25 60:8,9 62:6  62:7 63:5,8,18,18  63:20 64:4,13  65:8 67:15 72:22  76:15,20 77:10,22  77:23 78:7 79:4  79:14,22 84:10  86:5 89:21 90:2  90:19 91:1,2  94:13 98:16,17,21  98:22 100:5,6,19  101:10,15 103:13  103:24 104:5,5,19  105:8 106:25  114:3,8,13 116:15  118:13,14 119:1,4  126:19 127:5,11  137:20 139:17  143:5 153:6,9  160:18,21 161:2  161:11,13,14,16</p>	<p>161:17,23,23  162:4,15,18,19,21  162:22,25 163:6  164:21 166:14,16  166:18 176:9  177:4 178:17  179:23,25 182:5,9  182:17 186:8  187:1,7,8,13,20  192:25,25 193:1,3  193:4,4,8 195:1,2  195:3 196:12,16  196:17 197:13  204:9 207:11  209:8 211:2 227:4  227:5,17 239:8  245:17 252:12,20  252:24 253:2  255:1,5,7,8 256:4  257:20,22 258:18  258:20,20 262:6  268:25 269:2  <b>numbering</b> 186:6  <b>numbers</b> 32:16,25  34:10 70:9 90:11  94:12,15 105:11  108:10,12,17,22  109:16 127:21,22  127:23 138:4  148:11 153:5  163:14 175:19  218:24 219:1  239:14,16,25  252:7,15 254:12  <b>number's</b> 63:18  79:17  <b>numerator</b> 197:2  197:4 255:8  <b>ny</b> 1:14 8:6,15 9:5  9:13,21 10:3  274:23</p>	<p><b>o</b>  <b>o</b> 1:21 11:1 154:20  274:1  <b>oath</b> 234:20,24  <b>oberg</b> 10:21  <b>object</b> 51:9 72:7  108:23 157:14  158:13 159:2  163:23 164:15  181:10 209:13,22  235:16,19 237:9  240:15,16,18,23  240:24 241:3  270:16 271:3  <b>objected</b> 164:8  <b>objecting</b> 17:3,6  237:3  <b>objection</b> 3:12,15  3:21,24 15:12  26:14 27:14,14  53:19 86:20 88:12  93:3 109:18 133:2  162:20 165:12,17  177:5 187:24  194:19 222:18  229:18 232:14  240:1  <b>objections</b> 12:24  232:12 240:13  250:23 254:1,2  270:20  <b>obligation</b> 50:21  54:9 122:9 177:23  177:24,25 178:6  <b>obligations</b> 52:7  61:6,13 123:3,16  139:10 142:20  178:11 230:17,18  231:1  <b>observation</b>  149:13  <b>observations</b>  16:25 21:3 268:18</p>
--	---	---	--

<b>obtain</b> 262:17	29:14 30:18 31:6	155:12,13,18,20	263:2,11,17 264:1
<b>obtained</b> 194:6	31:20 33:5,8,9,11	156:13,23 157:18	264:17,21,25
<b>obtaining</b> 93:1,2	33:20 34:2 36:21	158:22 159:7,11	265:4,8,11,17,20
<b>obviously</b> 12:9	43:13,16,17,23	160:1,22 161:5	265:23 266:20
13:18 19:14 20:18	45:12 46:22 47:19	162:2,17 163:4	267:11,14,18
135:10 137:15	48:3,6 49:14	164:24 165:13	268:3,8 269:2,7
141:5 149:19	50:19 51:12,24	166:11 167:5,11	269:10,23 270:3
191:11	53:24 56:24 57:12	167:16 173:3,10	270:22 271:15,17
<b>occur</b> 126:8	58:18 59:5,14,17	174:16,20 175:1	271:17,21 273:8
200:21	60:14 61:1,19,21	175:16 181:23	273:12,13
<b>occurred</b> 212:10	61:25 62:24 64:3	182:10 183:24	<b>old</b> 274:21
243:24	66:4,24 68:16,16	184:3 185:4 188:3	<b>once</b> 65:4 249:16
<b>october</b> 41:5,16	70:2 71:21 72:9	188:10 190:19	263:23
54:20 71:5 77:9	73:7,7,12,15,23	193:3 197:21	<b>one's</b> 137:8
118:4 134:16,18	74:5,20,20 75:6	198:1,8,13 199:7	<b>ones</b> 11:24 25:15
154:23 204:6	75:10 76:3,20,24	199:16,19 200:25	66:7
230:7	77:4 78:11 81:3	201:1,2,11,15	<b>one's</b> 246:4
<b>odd</b> 77:16 88:20	82:23 83:17,25	202:4 204:8,11	<b>ongoing</b> 100:1
<b>offer</b> 85:14 86:9	84:17 86:24 89:9	205:14,18 206:8	111:5 123:15
212:22 232:17,21	89:23 91:1 93:6	206:10 207:13	246:19
235:11 240:3	93:20 96:2 97:9	208:3,12,16,20,23	<b>online</b> 217:11
241:2 249:19	97:17,21 98:10,20	209:6 210:13	<b>oob</b> 197:15
251:2,4 253:23	102:20 103:8,12	211:9 212:11,19	<b>opaque</b> 28:4
258:9 261:3	104:7,16,22 105:5	213:20 216:1,4,16	<b>operating</b> 66:9
<b>offered</b> 58:3 167:2	105:13 106:7,11	217:5,21 218:7,12	116:14 181:3
237:5,6	106:23 107:4	218:13,16 219:3,9	184:9,22
<b>offering</b> 16:20,24	108:18 109:14,21	219:21 220:12,15	<b>operation</b> 57:23
42:12 49:3,7,11	109:23,25 111:19	221:14,16,20,25	107:18
80:22,23 119:7	112:20,22,24	222:10,12,15	<b>operations</b> 101:9
212:25 237:13	113:2,6,9,9,17,23	224:2,25 225:11	101:9 112:3,6
240:10,11,14	114:7,15,16 116:4	225:17 226:5,9,10	<b>operative</b> 241:19
<b>officer</b> 93:21	116:16,19 118:11	226:18 227:11	<b>opine</b> 178:10
131:11	120:21 121:4	229:1,16,22	<b>opined</b> 93:24
<b>oh</b> 50:24,25 56:23	122:1,23 123:6	230:12 232:3,11	<b>opining</b> 19:19
65:1 66:24 77:12	126:25 127:18,21	233:2 234:19	<b>opinion</b> 39:20
111:4 202:14	128:7,14 131:7	235:18 237:14,20	40:14 49:3,7,11
272:11	132:8,21 135:1,4	237:25 238:23	51:25 80:7,9
<b>okay</b> 11:14 12:11	135:4,22 137:21	240:12 249:13	83:18 84:16 119:7
12:20 13:9,23	138:18,21 139:2	250:1 251:7,10,19	172:14 258:24
14:4 16:3 18:20	141:11 146:18	252:19 253:25	<b>opinions</b> 12:4
19:25 20:8 22:4	148:7,25 149:11	254:16 257:16,24	14:14 17:13 42:13
24:18 25:6 26:8	153:2,13,18 154:7	257:25 259:14	51:22 75:18 87:1
28:8,8,14,21,23	154:12,21 155:5	261:2,22 262:7,25	212:22,25 261:24

<b>opportunity</b> 20:1 20:2 <b>oppose</b> 183:13 <b>opposed</b> 83:19 99:17 110:25 111:2 148:11 153:25 177:11 191:23 197:4 228:24 <b>opposition</b> 2:18 3:2 4:8,16,25 5:14 5:22 6:4,23 7:17 <b>opted</b> 101:8 <b>optimistic</b> 272:1 <b>option</b> 180:20,20 258:11 <b>oral</b> 20:2 153:25 166:20 272:1,4,5 <b>oranges</b> 243:22,23 243:23 <b>order</b> 59:14 100:13 136:21,22 136:23 138:7 139:4,9 140:16 141:15,17,23 142:22 146:1 152:9 171:22 264:2 <b>ordering</b> 65:16 <b>orderly</b> 97:23 115:10 117:9 118:2,17 124:1,12 125:5,7,8,17,19 125:22,24 126:12 131:21 193:25 195:6 199:22 207:20 211:16 <b>orders</b> 141:23 250:3 <b>organized</b> 226:8 <b>original</b> 32:24 83:1,12 177:18 193:22 195:19	227:12 <b>originally</b> 151:8 <b>ought</b> 153:24 <b>outcome</b> 14:23 <b>outset</b> 14:16 146:2 <b>outside</b> 26:6 <b>outstanding</b> 84:9 84:12 106:12,19 231:4,9 266:10,17 268:12 <b>overall</b> 28:4 104:19 105:1 180:16 197:6 211:3 212:8 <b>overarching</b> 219:21 <b>overhead</b> 34:12 34:14,18,23 35:2 37:5 38:7 43:5 68:18 69:2,14,22 94:4,10 98:7 100:19 101:2 102:18,18,23,23 103:20 104:11,19 105:3 111:14,18 111:21 184:20 187:18 204:21 205:2 214:22 216:7,12 <b>overly</b> 272:1 <b>oversight</b> 272:25 <b>overview</b> 238:16 <b>owe</b> 49:20 <b>owed</b> 50:11 <b>owing</b> 265:4 <b>o'neal</b> 8:10	35:12,12,24 36:2 36:18,18 38:25 39:9,12 41:25 42:1,24 43:7 47:25 48:10 52:23 52:24 53:2,10,11 53:12,12 54:3,3 55:11 62:6,7,11 62:12,13,23 63:1 63:2 67:11 70:7,9 70:20,20,21 75:12 81:18 82:7 85:12 85:12,25 86:2,3,4 86:5 87:15,18 90:9 115:14,24 121:17 127:20 133:21 136:22 137:1,7 141:17 143:21 151:11,11 151:12 153:16 160:15,21 161:8,9 167:20 168:18 179:13 180:1 182:8,9 184:1,1 185:24 188:11,14 188:15,16,17 196:7 201:13,15 201:23 202:4,11 202:12 204:5,8,11 205:2 207:11 215:22 216:2 218:12 227:23 228:3 238:13,24 239:4,5 247:16,18 247:23 252:2 253:5,6 257:25 258:15 259:14 260:6,11 261:2,22 262:1,1,4,5 <b>pages</b> 39:7 62:20 81:16 87:9 185:24 186:5 227:8,21 238:12 256:18	<b>paid</b> 40:1,5 64:1 66:15 123:19 146:8 173:18 174:4 175:9,19 184:11,14 192:22 193:1 198:19 231:7,10 261:17 263:18 264:10 265:24 266:21 268:14,14 <b>paper</b> 147:6 <b>papers</b> 18:10,12 137:8 <b>paradise</b> 9:8 12:19 <b>paragraph</b> 25:13 32:3 33:21 35:5 35:11,12,23 36:2 36:9,10 63:1,2,4,8 63:8 74:6,7,11 113:24,25 134:11 136:22 141:16,17 142:22 143:18,21 174:20 175:18 177:3 178:16,18 178:24 213:14 215:1,5,22,25 218:8,12 219:23 220:4,13 221:20 221:25,25 222:22 223:8,24,25 224:16 228:11,18 229:6,16 <b>paragraphs</b> 25:13 25:20,21 26:5 114:1 211:1,6 212:20 213:4 222:12 224:17 256:18 <b>parcel</b> 149:1 <b>pardon</b> 82:17 104:8,8
	<b>p</b> <b>p</b> 5:1 8:1,1 11:1 <b>package</b> 23:9 45:24 46:6 262:17 <b>pad</b> 81:13 <b>page</b> 32:4,12,15 32:16,16 33:20,21		

[parenthetical - perform]

Page 40

<b>parenthetical</b> 53:8	265:1,5,8,16 266:11 267:3	<b>pay</b> 49:18 99:12 111:14 145:21,22	103:22,24 104:13 106:25 107:6,12
<b>park</b> 9:20	268:14,14 269:6	184:8 185:5,7,9	107:12,16 108:4
<b>parlance</b> 61:20	<b>partially</b> 141:25	185:11,13 186:11	110:4,10,18,18
<b>parol</b> 11:23 25:6	<b>participated</b> 173:15	186:11,20,20,21	112:13 114:2,11
26:25 27:22 51:10	<b>particular</b> 60:20	194:14 263:13	114:14,15 115:9
166:13,24 167:4	67:8 170:20	264:2 266:5	115:10 116:4,22
<b>parole</b> 174:10	209:18 219:10,10	<b>paying</b> 176:1	122:16,19,24
235:20,23 240:2	228:2 245:10	213:23	124:3 125:6,10,11
240:16 241:8,8	<b>particularly</b> 50:15 144:24	<b>payment</b> 5:5,7	125:12 131:4,13
243:3 248:15,16	<b>parties</b> 3:12,16,21	6:11 7:1,3 123:16	131:15 161:13,21
248:21	3:25 4:5 5:18 6:19	<b>payments</b> 178:8	161:22 163:6,8,18
<b>part</b> 13:7 21:2	13:3 19:10 24:6	204:20 231:12	164:21,22 169:6
26:16 38:24 40:2	26:23 35:5 125:8	<b>payoff</b> 265:21	170:2 175:3,19
40:6,13,15 46:5	125:10 136:20	<b>payroll</b> 36:6 67:21	176:2,10 177:4,11
49:12 50:1 53:22	148:12 157:4,11	67:22 186:20	177:13 179:15,23
53:23 84:19	157:20 165:24	188:12,18	180:3 181:8
105:25 106:21	170:18 173:24	<b>pendency</b> 92:11	196:12,17,21
119:25 122:4,15	174:12 195:13,13	<b>pending</b> 153:20	203:22 205:23,25
130:7 133:13	236:1 237:1 248:7	<b>people</b> 12:6 13:4	206:8,11 207:5,5
137:16 142:4	251:3 260:19,19	104:23 111:2	207:21 208:4,4,9
144:5,15 149:1	271:25	113:2 138:16	208:10,12,12
159:19 163:13	<b>partner</b> 12:19	171:6 174:1	214:5,7 219:25
175:15,22,23,24	<b>partners</b> 2:5,11	225:14 245:4	220:1,8 230:22
176:11,12,16,18	4:20,22 5:3,8,11	246:7 248:24	242:23 253:13,15
176:21 177:13	12:13 13:18	249:6,7,15 250:4	255:7,11 261:16
178:14 179:12	<b>parts</b> 110:25	259:8	261:19 267:19
183:9 184:13	189:11 190:15	<b>people's</b> 42:21	268:1,2,4
186:15 187:3	<b>party</b> 75:17	<b>percent</b> 23:25	<b>percentage</b> 43:1
190:17 192:5	128:25 129:4,6,8	34:3 43:1,4,14,20	43:20,25 77:5
202:16 203:4	158:3 166:15	43:21 44:11,11	90:18 100:16
205:12 213:10	242:1 246:23	45:3 48:22,23,24	114:7 115:9 116:5
214:15 217:3,9,14	<b>party's</b> 170:4,5	48:25 49:1 59:5,6	117:9 119:13
217:24,25 226:2	<b>pass</b> 60:12 96:24	59:18,19 64:22	131:4 134:1
230:15 233:22	128:6 132:20	71:8,8,9 72:4,13	196:10,16 198:14
235:4,5 236:25	216:18 257:1	76:20 77:2,8	206:12
243:18,19,20,21	270:1	88:21 89:4,7,10	<b>percentages</b> 112:5
243:22 246:6,18	<b>path</b> 256:1	89:16 90:2,3,7	124:2 130:1
247:3 248:1	<b>pattern</b> 64:19	91:2,5 97:19 99:7	<b>perception</b> 213:1
249:10 250:11	<b>paul</b> 8:25 11:8	99:8,18,19 100:3	<b>perfectly</b> 15:19
255:15,17 260:15	13:16 268:9	100:17,19,20,21	<b>perform</b> 40:10,11
261:20 262:17		101:4,4,6,8,10	40:16 41:6,14
263:25 264:8		102:8,10 103:13	80:15 89:1,2

[perform - post]

Page 41

117:6 119:12 121:13 133:5,8 <b>performance</b> 22:8 <b>performed</b> 40:20 88:18 115:2,4 202:16 254:11 <b>performing</b> 231:13 <b>period</b> 56:21,25 57:1 96:21 102:20 133:17 134:7,20 134:22 137:17 195:5,8 200:21 204:24 226:23 256:3 <b>periods</b> 96:16 191:16,17,19 <b>permissible</b> 169:19 <b>permits</b> 240:20 <b>permitting</b> 150:18 <b>personal</b> 139:13 164:3 225:13 230:25 233:10 <b>personally</b> 199:16 211:15 221:6 <b>persuades</b> 19:4 <b>pertains</b> 28:25 <b>petition</b> 18:15 21:11,20 41:2,5 41:15,21,22 42:14 54:9,13,14,20 55:3,5 70:12,16 70:17 71:25 72:11 72:11,15,20,23 74:10 78:17 84:23 87:24 88:9,10,19 89:4 93:12,12,19 95:10 99:1,20 106:8,12,14,15,17 106:19,22 107:4,7 115:3,4 117:22 125:19 126:3,10	127:8,10 133:6 141:6,6,8 154:24 163:17,25 184:23 191:18 192:3 193:22 198:18 200:2,15 203:10 203:13 205:6 206:23 255:21,23 256:11 264:6 268:12 <b>pharmacy</b> 20:14 45:7,13 46:5 47:16 59:24 78:25 78:25 79:25 80:1 80:4,8,9 81:10,20 82:14,15 118:20 119:8 120:4,4 121:18,23 168:23 168:24 169:5,8 252:13 <b>philip</b> 9:25 <b>physical</b> 42:16 <b>pick</b> 100:5 <b>picked</b> 22:17 23:25 67:21 68:4 69:6 <b>picture</b> 142:11 246:6 <b>piece</b> 59:13 266:3 <b>pieces</b> 22:19 147:6 171:10 219:17 <b>piles</b> 232:7 <b>pivot</b> 181:3 200:12 <b>pivotal</b> 21:8,10 <b>pivoted</b> 180:14 207:6 <b>place</b> 15:14 103:17 110:9 133:15 142:14,14 148:1 195:6 231:8 263:17	<b>plain</b> 166:7 169:14 <b>plainly</b> 165:16 <b>plains</b> 1:14 <b>plan</b> 131:12 194:3 194:4 <b>plane</b> 272:21 <b>planning</b> 30:15 <b>plans</b> 100:7 <b>play</b> 137:17 244:1 <b>plaza</b> 8:5 <b>pleas</b> 154:13 <b>please</b> 11:6 28:18 32:4 37:9,11 73:8 73:13 78:3,19 80:6 85:12 102:2 113:10,15 121:4 131:19 154:19 155:21 173:9 201:13 202:5,10 204:8 223:25 227:11 232:4,10 <b>pleased</b> 85:14 86:9 261:3 <b>plus</b> 60:2,5 95:10 101:4 127:14 176:6,6 187:18,18 207:1 255:11,12 <b>pm</b> 273:17 <b>pocket</b> 198:7 201:12 <b>point</b> 15:13 16:8 18:9,9 20:19 24:18 27:5,14 28:4 43:15 46:18 46:20 52:9 72:6,7 75:21 86:13 88:16 135:7 136:10 140:13 143:10 144:18 146:9 148:14,18,21 150:3 151:23 152:7 162:1	164:15,24 169:23 170:7,7,8,11,16 171:5 174:2 179:13 180:11,14 180:22 181:9 197:10 198:17 199:1,12 203:19 208:10 211:2 225:13 231:25 232:18 234:10 241:10 242:17 243:13,23 244:2 262:11 273:11 <b>pointed</b> 105:5 235:10 <b>points</b> 125:4 200:11 213:18 <b>poison</b> 243:17 <b>policies</b> 231:8 <b>policy</b> 245:10 <b>portion</b> 45:3 84:14 92:8 135:6 185:12 215:13 217:18,19 247:1 262:12 <b>portions</b> 2:8 15:22 179:19 217:20 <b>posed</b> 124:2 <b>position</b> 17:10 57:6 143:16 175:8 175:11 200:12 247:7 272:1 <b>positions</b> 166:23 241:19 247:9 <b>positive</b> 66:20 96:3 219:25 220:1 <b>possible</b> 17:20 57:16 117:16 181:2,5 187:19 199:6 210:9,12,15 229:21 272:3,15 <b>post</b> 54:8,13,14,20 55:3,5 64:13,17
--	---	--	---

64:20 70:15 72:11 72:20 88:9,10,19 93:12 95:10 106:8 106:15 126:10 127:8,10 133:6 141:6,8 184:5,22 192:3 205:6 255:21,23 256:11 264:5 <b>posted</b> 50:4 <b>potential</b> 23:24 231:5 242:21 254:7 256:6 269:4 <b>powerpoint</b> 167:13 <b>practice</b> 128:23 <b>pre</b> 64:16,20 72:11,15 93:12,19 133:5 193:22 <b>preamble</b> 240:25 <b>precision</b> 66:12 <b>preclude</b> 165:1 <b>predicate</b> 235:6 251:5 <b>predicated</b> 24:2,3 <b>prefer</b> 63:16 <b>preliminary</b> 18:23 259:5 <b>premise</b> 125:15 125:15 <b>premised</b> 195:19 <b>premiums</b> 123:18 <b>preparation</b> 179:7 <b>prepare</b> 181:12 203:7 <b>prepared</b> 66:1 116:24 117:8 165:2 166:6 180:15 181:15 214:4 233:15 239:19 253:17 269:17	<b>preparing</b> 179:12 237:22 <b>prepetition</b> 179:18 <b>prescription</b> 79:1 80:1 81:21 82:15 120:5 <b>present</b> 10:7 15:19 233:17 251:25 <b>presentation</b> 25:25 51:18 86:6 110:7,11 238:14 239:4 247:24 251:15,25 252:2 258:3,4,9 259:16 259:22 262:5,6 <b>presentations</b> 26:10 100:8,10 159:22 166:24 173:14 238:1 <b>presented</b> 14:15 159:15 233:17 253:19 <b>preservation</b> 92:13 96:15 <b>preserve</b> 94:4 123:25 132:15,16 <b>preserved</b> 250:23 <b>preserving</b> 124:8 <b>presumably</b> 69:22 <b>pretty</b> 21:24 140:3 <b>prevail</b> 246:23 <b>preventing</b> 249:25 <b>previous</b> 70:20 <b>previously</b> 36:12 38:3 56:4 92:18 94:2 193:23 221:2 247:21 <b>price</b> 39:4 50:17 84:15,19 123:8	167:19,21,24 168:1,2,3,3,6,19 169:9 170:2,10,16 173:1 174:4,9,12 239:6,15 253:13 253:15 255:17,19 261:25 <b>prices</b> 64:1 <b>primarily</b> 15:24 19:6 66:5 163:9 <b>primary</b> 57:8,14 66:14 92:5,12 96:14 <b>priming</b> 151:17 178:19 179:2 <b>principal</b> 53:7 <b>principally</b> 64:16 <b>print</b> 70:23 <b>prior</b> 74:7 88:15 130:5 145:20 148:2,4 163:10 169:16 175:7 176:1,1,23 200:1 203:13,16 206:23 237:22 244:25 <b>priority</b> 6:12 7:5 7:16 143:19,22 144:9 152:11,14 152:25 247:21 262:13,18 <b>pro</b> 142:21 143:15 145:6 169:17 <b>probably</b> 12:21 60:15 137:11 166:10 196:5 226:5 273:10 <b>problem</b> 13:7 17:22,24 18:6 142:9 146:12 162:17,24 173:4 201:24 225:23 <b>problems</b> 205:16	<b>procedures</b> 171:21 <b>proceed</b> 11:10,19 12:9 30:15 153:19 210:4 <b>proceedings</b> 273:16 274:4 <b>proceeds</b> 34:24 45:19 80:11 106:1 106:5 119:10,14 119:16 193:22,23 200:22 217:5,6,16 217:17,22,23 218:2,4 <b>process</b> 14:25 93:8 130:8 134:4 171:5,6 183:13,13 193:25 215:15 220:17,24 237:12 <b>produce</b> 235:22 <b>produced</b> 158:6 159:16 191:21 219:22 235:25 236:7,20 245:17 246:22 <b>production</b> 179:11 236:2 <b>profession</b> 139:22 <b>professional</b> 92:5 92:8,11 94:6,9,14 126:9,11,13 128:22 130:4 137:5 139:23 152:8 220:16,17 220:18 221:23 263:8,12,24 264:8 264:9 <b>professionals</b> 17:20 66:11 221:17 222:1 225:22 263:14 <b>professions</b> 224:19
--	--	---	---

<p><b>proffered</b> 16:16  <b>proffering</b> 58:13  <b>profit</b> 35:22 38:6  68:19 72:5 110:23  111:10  <b>profitability</b> 44:4  67:8 93:13  <b>profitable</b> 110:19  <b>profits</b> 35:14  <b>prohibit</b> 222:20  <b>prohibited</b> 241:24  <b>prohibitive</b>  244:16,23  <b>prohibits</b> 27:17  <b>project</b> 87:6  207:10,20 251:15  <b>projected</b> 192:25  207:5 208:21  252:7,12  <b>projecting</b> 148:5  <b>projection</b> 207:17  208:23,24  <b>projections</b>  134:13 259:21  <b>proof</b> 28:10 149:9  237:8  <b>proper</b> 22:16  174:9 241:7  <b>properly</b> 24:14  92:9 141:16 144:1  149:17 194:1  <b>property</b> 21:6  111:7 142:8 143:9  143:9 144:1 164:2  <b>proposal</b> 180:20  180:25 181:1  250:7,11 262:3  <b>proposals</b> 21:20  249:9 250:8  <b>proposed</b> 114:1  213:17  <b>proposition</b> 91:10</p>	<p><b>protect</b> 245:18,20  250:6  <b>protection</b> 137:2  139:9,19 142:6,23  143:8 144:6 145:8  148:1,2,4 149:2,5  150:19 151:10  152:10,14 178:20  194:7,9,12,17  195:20 262:13,18  <b>protections</b>  195:23  <b>prove</b> 242:1  <b>provide</b> 21:18  117:2 157:4 238:3  258:4  <b>provided</b> 28:24  130:9 134:12  149:24 151:24  170:23 171:22  179:14 191:15,24  215:11 219:16  220:7,8,10 228:7  229:8 230:2  233:12  <b>provides</b> 22:7  152:9  <b>providing</b> 15:21  92:12  <b>province</b> 22:18  <b>proving</b> 23:19  <b>provision</b> 108:15  169:2,10,11,13  <b>provisions</b> 141:15  142:10 149:25  <b>provoked</b> 242:13  <b>proxy</b> 43:21,24  163:18 164:5  <b>public</b> 200:10  <b>pull</b> 221:13  <b>pulled</b> 183:21  <b>pulling</b> 221:4,10</p>	<p><b>purchase</b> 26:6  40:8 50:17 52:9  84:15,19 123:7,8  123:10 167:19,21  167:23,24,25  168:2,3,3,6,6,19  170:15 173:1,1  174:4,8,12 239:6  239:15 253:13,15  255:17,19 258:10  258:17,21 261:18  261:25  <b>purchaser</b> 242:22  <b>purchases</b> 63:25  67:6 174:1  <b>pure</b> 20:13  <b>purely</b> 24:15  <b>purport</b> 172:13  <b>purports</b> 17:4,5,7  <b>purpose</b> 27:2  173:4,6 240:22  255:22 259:9  <b>purposes</b> 2:15  47:11 66:17 140:9  169:19 170:19,19  173:16 192:12  209:17 220:19  223:2,16 249:1  258:4 259:23  <b>pursuant</b> 2:23 3:8  4:8,9,15,17,24 5:1  5:13,15,21,23 6:4  6:5,11,13,14,22  6:24 7:4,5,7,14,15  7:16,17 179:16  <b>pursue</b> 130:22  <b>pursuing</b> 243:8  <b>pursuit</b> 57:18,18  <b>pushed</b> 152:5  <b>put</b> 19:18 26:20  33:17 77:15  130:24 131:7,12  131:14 136:4</p>	<p>143:6,14,23  145:16,19 149:9  149:17,18 150:20  151:2,9 152:13  170:18,20 172:10  172:17 175:24  177:3 193:16  195:5 224:5 244:1  263:12  <b>puts</b> 133:18  137:16 150:6  <b>putting</b> 145:14,20  161:22 163:1  249:11</p>
<b>q</b>			
<p><b>qualifications</b>  14:12  <b>qualified</b> 3:11,20  15:19 23:11 164:1  <b>qualitative</b> 11:22  <b>qualitatively</b>  20:25 186:19  <b>quantified</b> 44:19  212:14  <b>quantify</b> 212:7  213:3  <b>quarrel</b> 163:4  <b>quarreling</b> 146:6  <b>quarropas</b> 1:13  <b>question</b> 21:23  22:14 23:14 24:13  24:15 26:17 30:7  36:21 37:4,7,13  37:22 38:20 42:10  43:16 51:13 54:17  57:25 60:14 61:8  61:23 63:11 68:18  68:24,25 70:18  78:3,19 80:6  84:22,24 85:24  87:3 89:19 109:5  109:5 120:21  121:21 125:18</p>			

137:24 139:3 142:1,3,4 146:21 150:11 157:23 164:10 180:18 181:22 187:6 194:11 195:25 196:4 198:25,25 201:6,16,20,22,25 202:2,9 209:16 212:11 216:16 217:16 223:6 224:22 229:19 234:12,22 235:3 236:4 237:21 255:22 266:20 270:23 271:6 <b>questioning</b> 247:9 <b>questions</b> 11:24 21:8,9,10,14 62:25 63:3 69:25 71:19 72:8 97:7 97:14,16 98:9,15 110:14 128:11 138:25 141:9 159:6 181:18 194:23 196:1 199:3 202:3 215:12 224:15,24 230:16 231:22,23 232:6,13,22 248:1 259:3 262:24 263:1 <b>quickest</b> 61:16,17 <b>quickly</b> 138:24 <b>quid</b> 142:21 143:15 145:6 <b>quite</b> 17:19 44:2 187:19 231:9 247:22 <b>quo</b> 142:21 143:15 145:6 <b>quote</b> 183:5	<b>r</b> <b>r</b> 1:21 5:2,7 8:1,18 8:25 9:15 11:1 73:14 113:16,16 154:20 156:3 274:1 <b>rai</b> 1:25 <b>raise</b> 28:17 73:7 113:9 154:13 155:20 243:14 <b>raised</b> 12:1 243:10,12 270:20 <b>ran</b> 125:5 183:22 <b>range</b> 131:3 <b>ranging</b> 125:10 <b>rate</b> 88:21,25 <b>rates</b> 203:1 <b>ratio</b> 222:2 <b>raw</b> 159:25 191:15 <b>ray</b> 2:15 13:19 138:23 173:11 <b>rdd</b> 1:3 <b>reach</b> 20:12 100:13 <b>read</b> 14:8 21:5 37:2,9,11,12,14 37:17,18,21 45:15 46:11,14,20 74:11 81:14 134:3,11 137:4 170:12 194:1 202:4,5,10 208:16 223:24 228:2 238:19 239:23 241:24 258:13 <b>reading</b> 24:3,4 238:11 <b>reads</b> 74:9 <b>ready</b> 11:10 153:18 156:21 <b>real</b> 18:1 23:2 111:2 163:4	177:23 193:4,9,9 244:16 <b>realizable</b> 37:24 <b>realizations</b> 64:10 67:18 <b>realize</b> 130:21 196:18 <b>realized</b> 72:3 163:19 211:11 <b>reallocate</b> 146:7 <b>reallocated</b> 140:22 <b>reallocation</b> 146:12,14 <b>really</b> 13:25 15:8 16:12 17:2,8,25 18:9,17 19:11 21:8 22:14 23:3 29:22 34:25 42:20 62:9 68:13 137:8 140:25 150:4,10 154:24 167:22 180:12 188:4 195:7 197:1 244:21 <b>reargue</b> 21:2 22:24 <b>reason</b> 33:19 52:7 63:22 163:8 172:21,23 250:17 <b>reasonable</b> 57:8 57:14 100:22 101:10 105:4 118:1 158:24,25 194:5 249:7 <b>reasonably</b> 198:21 237:11 <b>reasons</b> 63:21 107:10 240:23 <b>rebates</b> 69:7 <b>rebuttal</b> 135:8 271:22	<b>rec</b> 118:19 <b>recall</b> 23:16 31:18 41:12 46:19 62:25 63:3 85:11 87:7 93:8,18 98:18 101:13 103:21 106:9 107:21 109:8,10,14 110:8 110:12,12 128:12 132:3,10 196:25 205:10,14 206:5,7 211:1 214:5,6 215:3 217:2 218:9 218:11 220:3 231:23 234:14 238:20,23 259:11 260:23 262:22 268:25 270:9,12 270:24 271:2,10 <b>receivable</b> 59:25 79:4,7 82:12,14 118:23 169:9 190:12 217:13 <b>receivables</b> 21:21 21:22 45:7,7,13 46:5,22 47:14,17 59:24 65:11,14,14 65:18 78:25 79:2 79:25 80:4,8,9 81:11,21 118:20 118:21 119:8,11 119:16 120:4,4 121:19,23 168:12 168:23,23 169:7,9 217:15 252:13 <b>received</b> 117:20 178:20 <b>recess</b> 138:20 <b>recipient</b> 258:5 <b>recipient's</b> 258:8 <b>recognized</b> 99:1 <b>recollection</b> 224:4
---	---	---	---

[recollections - remove]

Page 45

<b>recollections</b> 239:2	<b>reductions</b> 216:5	<b>regardless</b> 244:15	248:10,24 268:17
<b>recommended</b> 210:3	<b>refer</b> 26:6 52:11 150:13 212:14 235:13	256:1	<b>reliance</b> 14:20 22:7 128:12,25 129:3
<b>recommending</b> 210:18	<b>reference</b> 51:9 221:21 253:6 261:12 262:2	<b>reimursed</b> 150:19	<b>relied</b> 21:7 42:12 42:22 51:14 64:11 71:15,17 98:5
<b>reconcile</b> 187:14	<b>referenced</b> 103:13 229:23 234:17 253:2 269:6	<b>rejected</b> 52:6	116:19 117:18,19 119:15 124:13 129:24,25 157:4 170:23 202:22,25
<b>record</b> 15:11 16:12 24:22 26:11 26:12 73:5,13 97:2 136:16 137:13,16 138:3,4 138:21 154:19 173:9,21 191:23 191:25 207:9 213:15,16,19 216:21 242:10 250:8,22 274:4	<b>references</b> 52:3 53:6 136:24 155:6 238:23 252:5 270:14 271:2,10	<b>relate</b> 24:11 97:16 138:15 177:14 190:22 224:18	<b>relief</b> 50:20 <b>relies</b> 34:22 202:15
<b>recorded</b> 37:24	<b>referred</b> 29:18 110:5,7 135:19 168:17 230:2 232:16 234:13 236:6 238:8 265:25	<b>related</b> 2:3,9,24 3:8,17 4:1 6:15,24 14:24 24:10 63:22 84:5 122:17 176:21 183:5,8,11 183:12,17 187:18 194:24 217:11 220:16 221:21 227:23 230:22 256:2	<b>rely</b> 15:23 18:4,4 18:6 21:17,19 22:11 24:13 25:10 42:20 71:14 75:17 75:20 87:21 103:24 104:1,5,9 104:10,12 110:4 116:19,21 117:12 129:6,11 130:24 131:16 164:18,20 168:16 169:19 197:15 203:3 231:14 233:19 241:3
<b>records</b> 21:17,25 25:4,9,10 110:5 196:23	<b>referring</b> 75:8 103:5	<b>relates</b> 16:5 18:12 138:13 142:4 177:6 255:21 256:15	<b>relying</b> 16:5 22:8 27:21 35:1 64:6 125:1,3 133:13 170:4,5 209:11,17 231:14,17
<b>recover</b> 148:23,24 149:8	<b>refers</b> 24:21 25:24 150:13,14 225:17 250:18	<b>relating</b> 265:23 266:6	<b>remainder</b> 262:19
<b>recoveries</b> 211:4 212:8 259:22	<b>reflect</b> 238:7 269:23 270:5	<b>relative</b> 101:11	<b>remaining</b> 6:14 7:7 130:10 215:19 239:11,14
<b>recovering</b> 149:3	<b>reflected</b> 32:10 69:17 74:12 76:17 81:11 90:8 94:17 118:3 122:16 226:23 227:17 270:6	<b>release</b> 242:8 243:20 244:20 246:11,13 247:3 250:12	<b>remedy</b> 140:22
<b>recovery</b> 43:1 57:18 124:11 134:1,13 143:25 181:8 196:10,16 207:17,25 208:6	<b>reflects</b> 65:8 77:2	<b>relevance</b> 26:23 27:15 169:1,2,3 209:23 237:7,9,10 240:2,23 241:6,9 248:14,20,23 249:19,25	<b>remember</b> 31:19 101:16,20 110:20 144:20 223:12
<b>recreate</b> 169:14	<b>refresh</b> 224:4	<b>relevant</b> 56:21 140:25 170:17 172:6,19 173:16 173:23 209:24 223:1 237:11 243:15 244:3,14	<b>remove</b> 269:5
<b>recross</b> 132:22	<b>refrigerator</b> 217:10		
<b>redacted</b> 3:17	<b>refute</b> 54:24 55:2 88:17		
<b>redirect</b> 61:22 97:1 128:7,9 133:3	<b>regard</b> 83:18 201:3,7		
<b>reduce</b> 145:16 192:18 211:3 212:8	<b>regarding</b> 96:13 241:20 259:21		
<b>reduction</b> 44:11 44:11			

[removed - riecker's]

Page 46

<b>removed</b> 220:16	146:24 147:9	<b>requires</b> 19:3	<b>resulting</b> 44:4
<b>renege</b> 145:12,12	157:1,5,6 158:9	<b>rescap</b> 14:21	151:15
146:12	158:10 160:7	<b>rescue</b> 242:14	<b>results</b> 99:6 104:3
<b>reneging</b> 145:11	161:8,10 182:1,3	<b>reserve</b> 2:15	186:7 196:7
<b>renew</b> 164:25	183:24,25 184:1,2	26:23 149:19	<b>resume</b> 174:17
<b>rent</b> 36:6 37:25,25	188:10,17 196:6	<b>reserved</b> 248:19	<b>retail</b> 32:21 33:17
67:23,24 102:15	201:4,8 206:4	<b>reserves</b> 241:6	34:2,15,24 35:3
185:7	214:20	<b>reserving</b> 12:7	42:2 44:7,7 63:16
<b>repair</b> 189:8	<b>reported</b> 36:25	<b>residual</b> 262:11	64:14,15 66:17
<b>repeat</b> 78:3,19	99:6	<b>resolution</b> 246:10	67:14,14 68:20
80:6 89:19 201:6	<b>reporting</b> 183:22	<b>resorting</b> 193:23	69:10 70:11,11
229:25 234:22	<b>reports</b> 15:23	<b>resources</b> 69:3	99:10,11,17,21,23
<b>repeating</b> 270:21	18:7 19:12 21:16	<b>respect</b> 18:25 53:7	101:9 107:13,17
<b>rephrase</b> 109:7	31:23 42:21	98:3 99:9 104:11	117:3 134:14
162:23	124:22 157:12,12	105:6 143:25	190:17 204:12,21
<b>replacement</b>	158:16 213:7	144:25 151:22,23	217:3
63:22 64:2 142:5	<b>represent</b> 79:10	154:22 166:5	<b>retailer</b> 120:17
144:13 146:23	98:14 122:8,19,24	191:2,11 225:24	199:23 211:16,19
147:14 194:13	124:7 127:13	243:11 244:8	211:22 212:5,24
<b>replied</b> 42:19	178:18 206:10	249:11	213:2
<b>reply</b> 2:21 3:5,14	251:19	<b>respectfully</b> 37:1	<b>retailers</b> 67:2,9
3:23 5:17,25 6:8	<b>representation</b>	135:25	130:5 211:13,24
18:10	55:16,17 122:25	<b>respecting</b> 240:17	<b>retained</b> 93:18
<b>replying</b> 37:20	<b>representations</b>	<b>respond</b> 159:3	129:14 130:7
<b>report</b> 5:1 28:24	166:18	167:7 173:8	<b>return</b> 35:16
29:3,12,13,15,17	<b>representative</b>	<b>responding</b> 213:6	<b>returned</b> 200:23
29:21 31:13,20	172:4	<b>responds</b> 167:12	<b>returns</b> 64:20
32:12,24 33:20	<b>represented</b> 47:20	<b>response</b> 18:10	<b>revenue</b> 72:22
41:19 58:3 62:8	179:1	49:20 51:12	73:1 101:4 102:10
63:13 68:23 69:17	<b>representing</b>	201:19 216:23	102:12 121:6
70:6,21 71:14,15	159:17	225:2 268:21	<b>revenues</b> 67:5
73:16,20 74:12,17	<b>represents</b> 119:10	<b>rest</b> 26:5 33:25	72:17,18,20 218:4
83:1,13,17,24	186:19	112:16 126:2	<b>review</b> 119:24
98:6,6 101:14,21	<b>request</b> 3:16,25	205:23 271:19	124:9 207:10
102:3,4 103:4,8	4:25 5:7,10,14 6:1	<b>rested</b> 135:20,24	214:12 233:19
103:10,19 104:10	6:9 7:2	<b>restructuring</b>	<b>reviewing</b> 125:2
104:12 113:18,25	<b>requests</b> 2:19 3:3	93:20 131:11	220:21
114:1 116:20,24	3:13,22 4:5,13	195:15 210:3	<b>ri</b> 10:14
117:7,18,19,25	5:19 6:20	<b>result</b> 142:24,24	<b>riecker</b> 131:17,20
121:14 122:16,19	<b>required</b> 14:15	143:1,1 151:16,19	228:17
122:20 124:13,25	167:17 204:21	247:20	<b>riecker's</b> 84:6
125:3,13,16 126:7	243:20	<b>resulted</b> 34:5	228:6
130:25 133:21,23		180:21 222:3,8	

<b>right</b> 12:20 13:13 13:25 15:8 23:13 25:19 26:1,4,23 27:3,11 28:5,17 29:12 30:6,12 32:10,15,22 33:1 33:13,18,24 34:3 34:24 37:3 38:8 38:24 39:1,11,13 43:2 44:2,18,20 44:21,24 48:23 51:3,16 53:2 55:13 56:23 57:15 58:12 59:8,11,22 61:21 62:17 64:17 67:4 68:4 69:12 70:12,18,25 73:8 76:5,18,25 79:2,4 79:6,11 85:20 86:2,5 90:5 91:8 92:2,19,21 93:14 95:13,17 96:8 101:7 103:2,9,21 104:24 109:5,17 111:20 112:2,4,18 112:20 113:2,10 113:17 114:16 116:6,12,25 117:4 118:14,21,24 119:2,4 121:9,11 121:20,25 122:7 127:22 129:22 135:16,17 139:6 140:10 143:13 144:8,10,22 145:14 146:20 147:17 149:22,24 150:1,18 151:15 152:7,23 153:13 153:15 154:13 155:3,7,12,21 156:13 160:14,14 161:3,11,12,14	162:5,9,15,19 163:17 164:9 165:10,21 175:5 175:12,17,20 176:3,10 177:22 178:3,7,13,23 179:5,11,25 180:4 180:4,5,6 181:9 183:15 184:12 185:5,7,9,11,13 185:16 186:10,12 186:22 187:2,8,22 190:22 192:1,23 193:5 194:3,15 195:14,21 196:9 196:20 198:1 199:14,20 200:13 202:17 203:1,11 203:18,23 204:17 205:3,8,19,24 206:18,24 209:1 209:12 210:6 211:14,16,19,22 212:8,12,16 213:15 214:11,24 215:7,8,10,19,20 216:17 217:23 218:6,18 219:15 221:23,24 224:3 224:21,25 225:2 227:7,16 228:12 228:20 230:18 231:20 232:24 237:14 239:19 241:6 244:4 247:23 248:4 249:23 250:1,11 252:1 257:11 258:13,17,20,21 258:22,25 259:4,6 260:1,9,13 261:10 261:19,24 262:3 262:14 263:23	265:21 270:22 271:7,13,21,24 273:6 <b>rights</b> 12:7 143:25 144:6 145:7,8,22 146:2 <b>rise</b> 11:5 <b>rises</b> 17:12 <b>risk</b> 65:15 <b>risks</b> 211:2 213:3 231:22 <b>rita</b> 10:22 <b>ritrovato</b> 10:22 <b>road</b> 172:2 244:5 274:21 <b>robert</b> 1:22 9:16 10:12 12:12 97:2 <b>rolled</b> 53:25 84:19 85:2 <b>rollover</b> 86:14 261:12 <b>room</b> 1:13 <b>rough</b> 127:15 <b>roughly</b> 60:22 64:22 67:12 141:3 226:25 <b>round</b> 34:10 <b>rounded</b> 33:12 <b>route</b> 130:11 <b>routine</b> 14:10 <b>row</b> 132:5,10 <b>rows</b> 208:6 <b>royalty</b> 98:7 103:20 204:20 <b>rule</b> 2:2,21 3:6,14 3:23 4:8,16,24 5:13,21 6:4,22 7:14 153:24 169:17 213:4 240:1,18,20 241:8 241:24 244:7,15 244:16 245:22 249:2 259:17	272:2 <b>ruled</b> 21:3 25:22 235:23 241:9 243:4 248:17,21 <b>rules</b> 245:24 <b>ruling</b> 153:25 156:8 240:18 249:12 254:2 272:4,6 <b>run</b> 145:1 193:25 <b>running</b> 68:3 206:21 <b>runs</b> 272:16  <b>s</b>  <b>s</b> 2:3,9,24 3:8,18 4:1 6:15,24 8:1,17 10:13 11:1 28:21 154:20 <b>sabine</b> 22:14 <b>sacrosanct</b> 144:7 <b>sailed</b> 249:20 <b>sale</b> 14:24 17:17 18:16 40:2,7,11 40:13,18,23,25 41:2,5 50:14 55:20,24 56:7,11 57:9,13,18 58:7 70:15 72:4,23 88:3,4 93:8 96:14 120:19 130:8,11 130:23 132:25 133:17,19,25 141:23 144:20 163:19 167:24 168:7 178:13 180:8,20 183:5,10 184:15,23 187:7 195:12 200:16 204:12,13,16,17 204:19 210:17 212:4,15 215:14 215:14,17 217:17 217:24 218:1,4
--	---	--	--

220:23 227:23 232:19 233:23 238:5 243:8 246:8 250:7 255:15 264:6 265:5 267:16 268:15 <b>sales</b> 14:24 35:14 45:3 64:11 67:14 72:15,18,20 102:11,12 104:17 104:17 106:2 112:1 125:14,17 134:15,18 141:8,8 170:10 183:8,17 186:22 200:8 204:22 206:21 218:2 <b>sara</b> 9:23 <b>satisfy</b> 69:2 105:24 142:3,20 175:9 193:21 <b>saturday</b> 31:18 <b>sausage</b> 169:14 <b>save</b> 122:21 145:9 257:5 <b>saving</b> 96:21 <b>saw</b> 39:24 60:16 100:17 184:24 210:25 <b>saying</b> 20:17 27:21 35:2 37:25 54:16 105:19 132:18 140:5,10 145:13 146:7 147:5,15 150:22 172:24 176:14,23 177:1 180:2,19 185:1,19 187:9 194:9,10 214:18 242:22,25 245:4 265:11 272:12 <b>says</b> 26:22 28:1 33:20 35:7,13	37:3,13 38:21 39:1,2 47:24 48:3 52:17,20 53:6 71:2 72:12 74:12 74:15 75:13 79:11 81:13 85:7,25 86:6,9,13,14 89:14 115:15 119:20 122:24 134:12 137:1 143:17,21 151:1 151:10,12 168:19 168:20 169:13,15 178:21,25 179:15 182:21 186:13 194:15,16 196:7 204:23 207:19,25 208:20,25 229:8 229:23 230:9 238:13,16 239:5,5 239:11,21 241:1 244:4,17,22,22 247:19 253:13 258:3,8,19,21,23 259:4,20 260:12 261:3,25 262:8,9 <b>sb360</b> 210:5,13,19 <b>scale</b> 56:2 <b>scenario</b> 125:14 126:9,16,20 180:8 253:9,10,14,14 <b>scenarios</b> 190:10 253:7 <b>schedule</b> 109:11 185:20 236:11 <b>schedules</b> 79:8 220:7 <b>scheduling</b> 272:20 <b>schrock</b> 2:15 13:19 138:23,24 139:3,7 140:2,7 141:3,7 147:2 148:14,24 149:4	150:2,22 173:8,11 173:11 174:14 272:20 273:6,8 <b>schulte</b> 14:12 22:7 28:13,16,20,22,23 29:4,11,21,24 30:4,21,23 31:6 32:17 35:4 37:1 37:16,18,21,25 38:21 42:3,9,11 44:22 45:21 47:12 49:3,21 50:22 51:4 53:24 55:10 55:19 57:6 58:25 60:15,18,22,25 61:2,4,12,20 62:1 62:4,15 70:4,6 71:23 79:22 85:4 93:23 119:2 137:24 146:24 147:7 160:7 161:2 162:14,24 183:24 184:2 187:16 188:10,17 196:25 197:6,18 <b>schulte's</b> 162:4 163:5 185:21 186:3 196:6 <b>schulte's</b> 78:14 94:24 <b>scope</b> 133:3 232:13 <b>script</b> 168:24 169:5 <b>scripts</b> 20:14 45:7 45:13 46:5 47:16 59:24 80:4,8,10 81:10 118:20 119:7 121:18,23 <b>se</b> 140:25 <b>seal</b> 4:21 <b>sean</b> 8:10	<b>searchable</b> 182:21 <b>sears</b> 1:7 2:16 11:7 16:22 69:16 71:3 111:1 120:22 121:6 125:20,22 125:24 129:24,25 131:16 138:22 188:12,18,20 189:2 200:2,4,8 206:21,24 230:14 <b>sears'</b> 202:19 <b>seat</b> 28:15 <b>seated</b> 11:6 <b>second</b> 2:1,18,19 2:23 3:3,3,7,12,15 3:21,24 4:4,6,14 5:18,19 6:2,18,20 14:17 15:12 16:16 18:22 20:12,16 23:4,14 25:17 28:10 29:14 31:24 33:21 35:20 36:10 40:2,6,12,17 41:15 42:13 44:23 45:17,19,23 48:6 50:3 57:18 61:10 61:11 63:8 66:15 67:18 75:16 80:11 80:13 81:5 83:23 89:13 92:6 105:14 105:20,25 106:1 107:12,24 135:6 135:24 136:1 140:18 141:24 142:1,15,20 143:18,20 146:21 148:6 149:20 150:9 151:7,17 157:19,24 158:2,5 159:8,14,24 160:5 160:9,10,13,14,15 160:16 167:18 173:18 175:8,14
---	--	--	--

176:6,24 177:1	145:3 175:8	239:21 244:9	224:8 269:3
179:13 195:13,17	177:15 230:17,18	247:18,25 249:16	<b>sense</b> 30:8,11
195:18 205:10,15	<b>security</b> 36:7	250:16 252:2,5,7	124:21 142:19
213:13 222:15	45:15,16 46:9,11	252:12,15 253:6	145:17 150:17
223:10,11 224:8,8	46:20 67:25 80:23	253:11,15,16	190:19 247:3
224:16,17 226:13	81:16,17,20,25	254:25 255:2	<b>sentence</b> 36:10
226:16 227:5	119:21 120:3,9	256:18 258:1,14	193:18,19 194:4
232:2,14 233:7,22	185:13 186:20	259:18 260:2	213:13 223:25
234:9,13,17	258:10,12	261:4 262:8,8,10	229:8,23 230:1
237:22 242:25	<b>see</b> 11:2 19:8	262:15	<b>separate</b> 15:8
245:14 251:17	21:18 32:13 33:22	<b>seeing</b> 87:7	21:19 142:15
256:16,23 257:25	35:13,19 36:8	153:10	165:15 168:10,10
258:15 260:6	39:1,4,6,15 48:7,9	<b>seen</b> 39:21,23	170:16 175:22
263:12,14 264:3	48:12 52:11 53:2	41:8 56:15 85:10	176:16,18,21
264:10,22 265:12	53:8,15 54:4,6	86:21,22 87:5	192:12 243:9
266:16,23 267:1	55:11,14,23 58:13	230:12	248:2,5 249:22,23
<b>secondarily</b>	58:19 60:17 62:11	<b>segment</b> 189:5,8	261:20 265:14
163:10	67:15 71:5,11	189:11,14	267:3
<b>section</b> 2:20,20,23	76:4,6,9,13 78:7	<b>segue</b> 225:5	<b>separately</b> 67:4,5
3:4,4,8,13,14,16	79:13,15 81:15,18	<b>selected</b> 219:1,4	177:9
3:17,22,23,25 4:1	81:20 85:12,16,19	219:10,14	<b>september</b> 71:4
4:6,7,10,14,15,17	85:23,25 86:1,6	<b>sell</b> 35:18 36:4	203:22 204:2,4
4:23,23 5:1,12,12	86:11,15 87:12,14	71:25,25 72:10	<b>serves</b> 101:7
5:15,20,20,23 6:3	87:19 89:18,20	111:13 120:18	<b>service</b> 189:1,1,5
6:3,6,21,21,24	90:17 94:21,22	190:16 217:10,11	190:13
54:1,4 81:15,17	109:10 115:17,25	258:9	<b>services</b> 36:7
120:10 135:21	118:9 121:22	<b>seller</b> 163:20	116:25 117:3
143:18 151:24	125:6 135:1	198:23	121:9 185:13
167:18,20,21	137:19 140:24	<b>selling</b> 37:8 38:4	189:2,2,20 190:13
168:15,16,17,18	161:10 167:20	97:22,24 98:2	217:1
176:21 205:15	168:5 179:21	99:12 100:14,15	<b>serving</b> 93:20
252:17 253:3	184:4,8,9,10,25	101:13,16,17	<b>set</b> 144:15 156:10
267:14	196:8,13 201:15	102:13 104:10	167:18,19 177:7
<b>sections</b> 52:13	201:18,20,22	108:5,7,8 120:16	202:16 215:2
176:20 239:16	202:1,3 204:1,2,9	120:23 121:7	240:6
<b>secure</b> 23:19	204:10,11,16,19	<b>sending</b> 111:10	<b>sets</b> 17:14,20
147:23 223:10	207:7,12,16,19,24	<b>senior</b> 49:9	<b>setting</b> 109:4
224:8	208:3,6,8,9,20	142:14 146:5	223:6 243:2
<b>secured</b> 2:19 3:4	209:2,5,6,9 216:4	148:16 150:5,8,13	<b>settlement</b> 236:25
4:6,14,22 5:11,20	219:22 220:25	150:15,17,17,18	237:4 242:5
6:2,13,21 7:6,15	226:19,23 229:6	150:21 151:9	246:24 249:1
92:14 93:3,6	229:10,13 238:17	175:13,17 177:1,2	250:9 270:7
141:24,25 142:2	239:5,7,8,12,18	178:21 223:11	

[seven - specifically]

Page 50

<p><b>seven</b> 88:21  <b>seyfarth</b> 9:1 12:17  <b>shape</b> 153:1  <b>shaw</b> 9:1 12:17  <b>shedding</b> 101:1  <b>shielding</b> 247:8  <b>ship</b> 249:20  <b>shirin</b> 10:18  <b>shopyourway</b>  188:24  <b>short</b> 65:19  <b>shortened</b> 247:19  <b>shorter</b> 113:1  <b>shortly</b> 21:19  <b>shouldn't</b> 240:4  244:5  <b>should've</b> 74:11  74:12,15 235:25  <b>show</b> 22:12 32:11  32:12 164:20  184:19 186:23  188:5,6 193:12  211:6 223:5,16  249:17  <b>showed</b> 24:2  <b>showing</b> 67:12  184:19 186:6  <b>shown</b> 14:19  71:10 142:7  <b>shows</b> 68:9 161:10  219:6 245:6 247:8  <b>side</b> 15:13,18  57:24 154:4  <b>sides</b> 17:2  <b>signed</b> 56:18  227:1,2  <b>significant</b> 16:14  72:18,20  <b>similar</b> 12:2 43:19  171:3 192:19  205:5  <b>similarly</b> 68:6  220:15</p>	<p><b>simple</b> 17:17  <b>simpler</b> 77:15  <b>simply</b> 117:12  139:19 140:9  148:15 242:17  243:6 258:20  <b>sincerely</b> 110:12  <b>singh</b> 13:19  <b>sir</b> 28:14,20 29:4  30:4 32:20 33:14  34:4 35:23 39:14  40:22 42:5,7  44:25 45:11 48:5  48:11,23 52:18,22  53:17 69:15 70:8  70:19 78:23 82:8  88:5,14 89:13  91:10 201:20  202:9 228:6  229:22  <b>sitting</b> 29:5,18  73:17 113:19  118:8 155:8  156:10  <b>situation</b> 17:12  <b>six</b> 133:19,19  134:7,15,20  174:20 175:19  177:3 182:5,11,12  182:13  <b>size</b> 52:16 230:13  <b>skinny</b> 31:1 47:23  75:7,12  <b>skipping</b> 120:14  <b>skips</b> 53:11  <b>slap</b> 248:24  <b>slender</b> 162:12  <b>slide</b> 24:2,16  207:16 208:20  <b>slightly</b> 35:16  79:8 100:18,18  103:18 196:19  197:5 252:22</p>	<p><b>slip</b> 231:5  <b>small</b> 18:14 52:14  52:18 68:19 70:23  87:8 115:13  119:19  <b>smaller</b> 38:21  <b>sold</b> 22:9 23:21  27:25 35:22 40:12  40:17 60:21 64:6  72:11 91:11,14,15  91:16 99:10,10,17  99:21,25 107:13  133:5 164:2 170:9  172:21 179:16  215:18 233:22  <b>solely</b> 83:25  179:20 258:3  <b>solicitation</b> 258:9  <b>solutions</b> 274:20  <b>something's</b> 91:17  <b>somewhat</b> 14:3,3  112:7 141:13  <b>sonia</b> 10:10  <b>sonya</b> 7:25 274:3  274:8  <b>soon</b> 272:2  <b>sorkin</b> 9:24  242:15,15  <b>sorry</b> 17:4 25:20  32:4 37:16 50:25  54:4 55:1 62:22  66:10 69:5 72:19  78:7,9 82:7 88:2  102:7 105:9  109:15 114:9  120:24 121:21  130:14 131:25  137:10 139:11  145:25 147:7  152:17 182:23  184:13,24 185:25  188:14 191:22  212:2 215:23</p>	<p>217:14 223:25  224:17 229:25  241:15 270:18  <b>sort</b> 96:20 119:12  124:19 132:25  242:20  <b>sorts</b> 14:6 123:2  171:9  <b>sound</b> 79:11 206:8  <b>sounds</b> 121:25  158:1 180:5 200:6  205:17 206:13  210:7 267:13  <b>source</b> 18:13  40:19 94:11  115:22 144:15,19  146:24 184:11  187:15 197:20,22  203:21  <b>sources</b> 78:17,20  87:6 176:22  238:16 251:5  259:2  <b>southern</b> 1:2  <b>speak</b> 64:2 128:25  166:19 188:8  213:22  <b>speaks</b> 27:10,21  53:20  <b>specialist</b> 129:8  129:13  <b>specialists</b> 129:1,4  129:6,9  <b>specialized</b>  212:23  <b>specializes</b> 130:4  130:19  <b>specific</b> 12:24  54:5 57:1 129:6  225:21 270:24  <b>specifically</b> 25:12  41:3 45:20 50:9  54:12 81:22 82:1</p>
---	--	--	--

[specifically - subordinated]

Page 51

87:19 110:18 120:3,8,11 132:2 140:16 145:19 <b>speech</b> 259:10 <b>spell</b> 73:12 113:14 154:18 <b>spend</b> 17:18 68:13 168:14 <b>spending</b> 67:4 <b>spent</b> 38:19 147:15 183:1 186:20 193:9 194:8,10 <b>spiral</b> 51:7,8 55:11 89:13 115:13 <b>spoke</b> 272:21 <b>stabilize</b> 93:13 <b>stack</b> 105:18 108:6 264:23 <b>stage</b> 249:8 <b>stakeholders</b> 241:22 <b>stamp</b> 236:18 259:16 262:6 <b>stamped</b> 236:13 <b>stand</b> 17:9 27:4 28:3,13 29:25 175:21 198:11 223:19 <b>standard</b> 213:21 <b>standards</b> 128:22 128:25 129:3 <b>standby</b> 83:9,21 178:2 <b>standing</b> 154:25 <b>stands</b> 73:20 250:12 <b>start</b> 28:11 140:13 141:18 156:9 257:19 272:11 <b>started</b> 23:16 43:12,18 47:7	115:20 133:25 134:18,23 162:24 244:5 <b>starting</b> 32:24 139:20 140:13 148:18,21 160:6 161:22,25 162:4 162:18,18,25 181:2 202:6 <b>starts</b> 20:11,11 39:9 136:25 193:7 <b>state</b> 36:2 80:24 118:3 170:12 216:6 224:5 <b>stated</b> 107:10 108:14 114:5 119:9 131:21 210:8 216:4 222:23 223:8 <b>statement</b> 35:19 103:18 110:24 119:5 223:12 224:11 245:1 258:24 <b>statements</b> 65:17 68:22 131:16 243:6 <b>states</b> 1:1,12 <b>stating</b> 170:13 <b>status</b> 45:14 49:2 137:14 153:4 <b>statute</b> 245:21 <b>stauble</b> 10:23 <b>stay</b> 13:3 151:7 <b>staying</b> 13:7 <b>steen</b> 8:3 11:16 <b>step</b> 42:10 44:22 73:3 104:9 112:22 135:4 155:13 271:18 <b>steps</b> 93:12 <b>steven</b> 9:8 12:19	<b>stipulation</b> 137:15 140:19 144:4,13 148:3 153:7 <b>stipulations</b> 250:3 <b>stock</b> 39:4,15 47:6 77:8 89:17,20 90:12 230:6 <b>stood</b> 13:15 <b>stop</b> 75:16 147:15 164:6 231:12 <b>stopped</b> 236:24 <b>store</b> 36:6 41:24 43:5,9 67:4,7,8,19 68:3,6,10 69:3,9 69:16,20 91:11,13 104:17 130:8 183:10 184:20 185:1,5 186:11,20 187:4,7,12 197:11 204:21 214:22 216:6,11 217:11 220:16 227:23 <b>stores</b> 31:25 32:13 32:21,22 33:16 36:14,22 42:25 43:25 44:5,8 45:2 45:3 63:3 64:4,5,9 64:23 65:2,9 66:9 66:16,19 67:3,9 67:10 68:20 71:10 89:6 99:2,2,3,4,5 99:9,25 100:8,17 100:20,21 101:1 102:9 104:1,25 105:1 107:14,16 110:17,18,20,23 111:10,12 112:12 121:7 130:7,10 183:5,12,14,16 184:5 186:10,12 200:2,5,8 207:2 <b>stores'</b> 74:8,9	<b>storing</b> 38:11 <b>story</b> 174:13 243:18 <b>straight</b> 51:6 <b>straightforward</b> 14:22 <b>strauss</b> 9:18 <b>street</b> 1:13 9:12 <b>stricken</b> 224:18 <b>strike</b> 2:1,8 12:8 14:13 15:6 17:25 105:9 212:20 213:13 225:9 271:8 <b>striking</b> 14:9 <b>stronger</b> 234:10 <b>struck</b> 213:5 <b>structure</b> 100:25 266:9 <b>studied</b> 46:9,12 46:14,17,20 85:3 <b>stuff</b> 52:6 <b>subject</b> 24:23 26:13,14 93:5 137:11 147:10 156:8 165:1 232:25 259:17 <b>submission</b> 14:20 <b>submit</b> 14:10,16 17:14 18:14 19:18 136:3 157:1 210:13 213:3 <b>submitted</b> 26:21 56:6 73:16 113:18 154:22 156:5 210:19,22 227:18 247:13 <b>submitting</b> 58:16 <b>subordinate</b> 152:6 <b>subordinated</b> 152:11
--	--	--	--

<b>subordination</b> 151:17 152:6	6:8,18 7:11 25:18 159:14 160:13,16	102:14 126:16 216:6 263:23	207:8
<b>subparagraph</b> 136:25	174:24,25 182:3 205:10,15 210:8	269:4	<b>tableau</b> 22:22
<b>subsequent</b> 106:17	211:2 212:15,20 213:5 215:1,21,24	<b>sure</b> 30:20 32:14 40:5 50:24 54:18	<b>tabs</b> 85:7 198:6
<b>subset</b> 219:21	224:16,18 226:13	59:15 61:3 62:5	<b>tailored</b> 220:18
<b>subsets</b> 191:19	226:16 232:3	68:23 75:11 84:25	<b>take</b> 12:21 17:10
<b>substantial</b> 44:17	233:7 234:18	89:20 97:10 111:7	17:23 18:23,24
179:14	237:22 251:17	120:25 121:22	31:15 36:3 42:10
<b>substantially</b> 64:25	256:16	123:1 138:3 147:1	42:15 44:3 46:4
<b>subtract</b> 132:17	<b>supplied</b> 203:4	149:14,22 150:3	52:14 54:12 70:14
193:9	<b>support</b> 2:21 3:2	153:16 155:20	77:21 91:3 101:20
<b>subtracted</b> 127:23	3:5,14,23 4:5,13	157:23 174:19	104:2,9 113:3
<b>subtracting</b> 197:3	4:21 5:10,18 6:1,9	179:12 180:1,18	133:14 136:3,11
<b>subtraction</b> 61:6	7:13 73:18 178:19	194:11 214:9,12	139:17,21 140:5,7
61:17	191:7 204:21	220:8,10 250:24	140:24 146:3
<b>success</b> 137:6	219:13 222:18	257:5,6,7,14	148:18 152:12
<b>successful</b> 93:1,2	235:10	<b>surety</b> 122:17	154:8 157:10
93:4	<b>supported</b> 241:8	<b>surface</b> 108:9	160:10 162:11
<b>suddenly</b> 145:2	<b>supporting</b> 190:23 199:1	<b>surprise</b> 141:13	174:10 181:4
<b>suggest</b> 11:21	<b>supports</b> 175:11	<b>surprised</b> 91:1	205:25 214:13
15:23	191:13	<b>sustain</b> 109:17	225:7 228:25
<b>suggested</b> 77:13	<b>suppose</b> 11:18	165:10	254:13
138:11	<b>supposed</b> 124:7	<b>sustained</b> 165:18	<b>taken</b> 166:23
<b>suggesting</b> 77:11	144:20 221:8	<b>swear</b> 28:18 73:8	197:18 209:3
198:17 247:10	222:24	113:10 154:13	222:25 228:23
<b>suite</b> 8:22 274:22	<b>supposedly</b> 23:21	155:23	241:19 263:11,17
<b>summary</b> 63:5	<b>surcharge</b> 2:23	<b>switch</b> 123:20	<b>takes</b> 35:17,21
86:1,7 158:24	3:7 4:9,17,25 5:14	<b>switched</b> 210:16	67:6 124:4,6
159:2 190:24	5:22 6:5,23 92:7	<b>swore</b> 222:16	197:8 214:9
197:23,24 218:20	93:3,24 96:8,10	<b>sworn</b> 154:16	<b>talk</b> 11:21 25:23
218:21 237:17	114:2 123:21,22	156:2 224:11	41:24 55:18 58:8
<b>sunny</b> 13:19	123:23 124:7	<b>system</b> 106:5	91:22,22 138:7
<b>super</b> 143:22	179:24 184:19	<b>t</b>	181:21 200:25
144:8 152:10,14	192:14,16 193:11	<b>t</b> 28:21 156:3	206:14 222:1
152:25 247:21	218:9	274:1,1	272:16 273:4,11
262:13,18	<b>surcharged</b> 107:24 190:8	<b>tab</b> 29:9 35:7	<b>talked</b> 59:22
<b>supersedes</b> 169:16	<b>surcharges</b> 31:11	38:21 42:4 48:3	102:17 178:2
<b>supplemental</b> 3:1	55:19 91:23,24	50:24,24 52:17,19	184:24 193:19
3:15,24 4:12 5:25	92:18 94:3 97:8	62:9,16 87:9	234:14 253:9
		89:13 116:1,2	254:12 268:20
		119:19 132:3	<b>talking</b> 32:6 51:5
		182:2 203:25	52:8 56:9 138:12
			146:14 209:15
			237:1 270:7,13

<b>task</b> 45:22 220:24	232:20 269:4,24	70:18,20 71:16	200:18 201:19
<b>team</b> 183:21	<b>testify</b> 13:5 53:21	73:2 74:22 75:5	204:23 208:25
210:5,19 220:18	164:1 172:4	76:3 77:15,22	209:20 210:25
225:17 226:3	181:13 220:3	79:12 80:22 82:2	211:8,14 213:20
269:18	221:2 228:20	82:9 83:1 85:21	214:11,22 215:8
<b>teed</b> 24:16	<b>testifying</b> 15:14	86:8 87:8,11 88:7	215:20 216:17
<b>telephone</b> 36:7	72:8 156:23	89:3 91:7,10	218:6,18 219:20
<b>telephones</b> 185:9	158:21 220:3	96:24 109:22	221:5,24 224:10
<b>telephonically</b>	225:15	110:13 112:23	224:21 225:23
10:7	<b>testimony</b> 2:7	114:17 117:21	226:23 227:7,16
<b>tell</b> 28:18 63:14	12:8,24,25,25	118:16 119:19	227:17 229:18
73:8 103:16	13:4,8 14:20	120:12 121:5,16	232:7 235:6 236:5
113:10 134:10	15:16,20,21 16:6	122:1,3 123:2,6	239:6 240:14,21
137:9 147:11	16:10,11,11,19,21	126:7,18 127:3,14	240:22 243:4
154:14 155:23	17:4,5,6,8,8 18:5	128:2,5 133:11	244:15,16,21
165:7 195:24	19:1,1,13 20:6	136:14,18 138:14	246:7,24 249:3,22
203:17 267:12	21:7,12 23:2,2,3	149:23 155:15	249:22 250:14,20
<b>telling</b> 19:15 23:1	29:6,19 30:2	160:2 165:11	251:14 252:1,17
23:8 93:8 159:5	46:16 57:10 58:25	166:11 167:16	252:24 257:7
204:25	63:11 74:7 84:4	197:21 214:1	258:19,23 260:11
<b>tells</b> 147:11,13	92:16 97:8 105:6	220:12 223:17	260:14 262:20
<b>ten</b> 25:21,23	108:24 109:1,11	224:13 225:4,15	263:17 264:18
<b>tensions</b> 18:17,17	110:20 113:20	226:4 228:6	265:10,14,19,22
<b>teresa</b> 10:17	118:18 135:15	230:12 235:16	269:22
<b>term</b> 65:19 267:22	155:3,9 156:10	240:9 250:25	<b>thau</b> 10:24
267:22	159:13 165:1,18	254:3 257:1 259:3	<b>theory</b> 23:15
<b>terms</b> 21:12 22:22	167:2,2 169:18	264:13 268:7,7	236:9
43:24 63:19 104:9	174:23 181:11	271:16 272:8,9	<b>thereof</b> 176:5
125:5 139:9	187:24 213:10	273:9,12,14,15	<b>there's</b> 53:3 54:5
140:16 146:13	216:24 223:2	<b>thanks</b> 115:1	58:16,21 60:17
174:4 186:6	224:15,22 225:12	135:1 147:4 268:8	61:17,18 69:5,5,7
190:21 191:19	225:12,19,24	272:7	75:8 76:4 77:16
221:4,9 226:6	227:18 230:21	<b>that'd</b> 113:5	81:15 87:12 98:20
236:16 240:3	254:16,20	<b>that's</b> 55:6,11	98:24 104:18
270:13,25	<b>text</b> 230:9	56:23 57:5 60:1	115:17 201:24
<b>test</b> 110:3	<b>thank</b> 13:24 20:9	60:20 67:18 69:6	207:24 208:6
<b>testified</b> 36:12	20:20 28:7 31:6	69:12 70:11 76:15	218:23,24 219:6
38:3,10 39:19	31:17 32:7,18	76:17 80:3 86:2	219:13,21 221:22
45:21 46:8 55:23	44:10,21 46:8	89:12 90:1,1,3	222:12 225:8
56:4 92:10,18	47:12,23 49:3	92:16 95:9 97:8	239:8 240:25
93:11,23 100:3	54:3,8 55:18 58:9	102:5,8 104:6	247:5 258:24
102:7 124:16	59:16 60:12,13	105:13 109:19,22	260:11,11 261:12
133:12 188:2	61:24 65:11 69:25	198:22 199:6,21	264:25 266:24

<b>they'd</b> 247:12 264:12 <b>they're</b> 58:18 65:18 68:4 74:18 82:1 91:19 212:25 213:11 218:18 226:5 233:7 235:15,20 239:17 240:19 242:6,7 243:16 245:2 246:23 247:6,9 249:16 250:9,9 257:8,10 259:1 261:24,24 <b>they've</b> 228:23 248:19,21 <b>thin</b> 132:1 182:14 <b>thing</b> 26:21 37:19 61:5 67:3 75:11 186:1 195:10 222:6,15 <b>things</b> 34:20 35:9 65:24 66:11 93:11 102:14,14,15 120:14,16,22 121:7 137:3 142:17 173:16 248:19 267:1 <b>think</b> 11:21,24 12:5,9,21,22,25 12:25 14:13 15:22 16:9 17:11 18:8 18:10,21 19:22 20:6,6,15,25,25 21:8,11,13,14 22:5,22 23:1,5,6,7 23:10 24:15,19,20 25:22 27:4 28:10 29:16 30:10 39:25 44:19 50:5,5 53:22 57:16 68:17 83:2 86:4 88:21 98:13 103:12	106:23 109:4 112:24 117:24 123:22 124:6 126:23 131:23 132:8 133:4,14,25 134:10 135:16,20 137:11 139:15,16 139:21 140:8,11 140:21 141:3,16 141:18,25 142:8,9 142:10 144:17 145:6,8 148:9,21 149:7 151:18 153:17,23 158:17 158:19 160:21 161:25 164:10,14 164:20 165:8 166:9 167:6,22 169:2,23 170:13 170:14,16 171:1 172:6,16,16,17 173:16 174:10 181:18 183:9 184:17 185:23 188:1,1,20 190:19 190:24 191:25 192:2 194:21,22 196:17,18 197:6 197:20 198:21 210:25 213:11,20 213:23 214:22 215:8 218:6 219:20 220:6 225:8,13 232:22 235:10 236:3 240:13,19 241:9 242:2 243:4,9 244:3,7,11 245:2 245:9,10 246:4 248:13 249:6,6,10 249:14,18,24 250:2,5,10,12,13 251:7 257:8	261:11 265:1 267:10 268:19 269:5 271:24 272:4 273:4 <b>thinking</b> 171:6 251:21 <b>thinks</b> 30:11 <b>third</b> 75:17 85:13 86:13 128:25 129:4,6,8 182:8 209:2 223:24,25 235:15 <b>thirty</b> 42:6 <b>thomas</b> 2:10 5:2,7 8:8 9:15 <b>thought</b> 22:5 94:7 97:12 100:22 101:8 105:2 108:3 138:7 148:17 153:22 162:7,7 164:4 166:2,4 170:7 191:3 207:23 <b>three</b> 16:15,22 17:6,13,20,20 18:17,25 20:15 24:6 39:3 44:5 52:16,24 63:20 77:12 81:24 87:9 92:1 97:15 99:2 103:22 154:22 156:5 168:22 170:22 181:4 183:25 195:5 200:1 240:13,16 242:3 255:17 256:3 <b>three's</b> 220:20 <b>threshold</b> 11:25 166:5 <b>thursday</b> 31:21 83:17 159:13 182:18 272:18	<b>ties</b> 27:8 250:13 <b>tiger</b> 15:24 18:6 22:8 42:21 71:3 71:14,15,15,17 75:18,24 98:5,6 103:13,18,19,24 104:5,10,12 116:20,24,25 117:2,7,13,18,19 117:20,25 124:9 124:13,22,25 125:3,13 126:7 128:12 129:8,9,12 129:13,14,18,24 129:25 130:12,15 131:8 133:13,17 133:22,23 202:17 202:19,22,25 203:4,6,22 204:1 204:12,19 206:4 209:12,17 210:1 213:17 214:20 216:9 231:15 250:8 <b>tiger's</b> 203:3,14 204:25 205:7 209:3,8 <b>tight</b> 44:19 <b>time</b> 11:21 17:18 19:17 28:11 38:19 39:21,24 56:21,25 57:2,3 65:4,4 68:13 83:15 84:5 88:16 96:15,21 101:1 104:18 113:7 120:19,19 122:22 129:22 134:24 147:15 151:9 180:15,22 181:9 193:24 198:15 204:24 210:18 211:7 226:23 228:8
--	--	---	---

[time - two]

Page 55

231:9,11 243:7,23 260:23 <b>timely</b> 259:24 <b>times</b> 55:20 180:3 241:20 <b>tiny</b> 22:19,21 <b>tire</b> 15:8 <b>titled</b> 205:15 207:9,16 <b>toaster</b> 49:19 <b>today</b> 12:14 19:11 29:5,19 73:17 113:19 138:11 147:13,20 151:21 155:8 156:11,23 222:25 223:2 232:8 266:10 272:2,3 <b>told</b> 12:22 61:10 154:4 199:13 203:14,18 205:6 273:3 <b>tom</b> 11:15 12:14 272:11 <b>tomorrow</b> 272:15 273:11 <b>tonight</b> 272:22 <b>top</b> 15:22 18:3 32:5,16 39:11,11 76:8 86:7 139:17 140:6,7 152:13 161:10 186:6,15 186:16,17 187:1 187:21 188:16 196:6 208:13 216:2 221:19 258:18 263:11 265:25 266:17 <b>topic</b> 21:12 <b>topics</b> 260:17 <b>total</b> 39:4,15 44:22 47:6 48:9 58:12,18 76:11	77:8 78:5,7,22 81:7 88:22 89:10 89:17,20 90:11 94:17,22 95:3,15 95:17 98:16,17,21 98:21 101:17,22 101:22 102:6,23 105:1,8 107:1 121:20,23 126:20 127:23 132:9 152:2 153:9 160:18 184:25 185:2,4 186:9,13 215:6 218:17 227:14 253:2 264:14 266:7,16 267:1,4 272:5 <b>totaled</b> 226:22 227:4 <b>totaling</b> 254:11 <b>totally</b> 172:5 209:14 211:8 243:15 <b>totals</b> 162:21 266:5 <b>trace</b> 60:20 61:9,9 <b>tracing</b> 60:20,24 61:20 121:13 136:6 <b>tranche</b> 145:4 <b>transaction</b> 50:14 56:19 177:13 178:15,15 195:22 198:22 212:10 233:14,23 238:16 258:5 259:25 268:15 <b>transactions</b> 259:24 260:1 <b>transcribed</b> 7:25 <b>transcript</b> 274:4 <b>transcription</b> 73:24 74:8	<b>transform</b> 87:6 181:1 251:15 259:15 <b>transit</b> 115:8,12 116:9 205:12,19 205:22 206:3,6,11 <b>treated</b> 52:12 <b>treatment</b> 50:13 52:11 59:12 259:22 <b>treats</b> 65:18 174:11 <b>trial</b> 174:23 240:20 <b>tried</b> 56:1 111:22 272:13 <b>trifecta</b> 226:8 <b>trouble</b> 272:20 <b>true</b> 19:15,22 22:2 24:25 49:25 172:13 184:21 190:14 235:7 250:6 274:4 <b>trump</b> 143:23 <b>trust</b> 2:6,11 6:9 7:2,12 9:2 12:17 47:22 98:14 222:19 <b>trustee</b> 6:10 7:3 7:13 9:3 12:18 222:19 <b>truth</b> 28:18,19,19 73:9,9,9 113:11 113:11,11 154:14 154:14,15 155:24 155:24,24 236:25 237:6 <b>try</b> 15:5 39:8 68:14 77:6 94:21 112:3 226:8 <b>trying</b> 134:2,9 167:1 172:18 173:4 187:13	211:7 232:17 237:13 241:20 242:6,6,7,8 243:16 247:6 <b>tune</b> 127:7 <b>turn</b> 32:12 36:17 38:20 39:7 47:2 48:3 52:17 53:10 54:3 70:20 75:14 81:13,14 85:6,12 87:8 115:14,24 119:19 167:20 196:6 201:11,13 204:8 207:11 223:22,23 226:16 229:12 238:12 239:4 253:5,5 <b>turned</b> 143:13 191:7 213:9 267:15,16 <b>turning</b> 262:1 <b>tweed</b> 9:10 <b>twice</b> 28:25 <b>two</b> 11:22 15:8 21:8,10 24:6 26:10 28:5 31:23 41:4 43:7 48:20 49:8 50:13 52:3 53:6 63:18 66:7 90:11 95:22 122:3 123:6 127:6 138:25 142:10 143:19 149:5,6,16 153:17 154:25 155:7 159:22 164:25 166:16,18 167:17 170:23 178:10 202:7 204:13,16 208:6 222:10 227:13 232:12 235:14,22 237:21 238:1 252:15 255:14
--	--	---	---

[two - value]

Page 56

<p>262:2,8 264:15 <b>tx</b> 8:23 <b>type</b> 19:5,12 124:5 178:5 195:6 197:8,15 249:8,17 <b>types</b> 68:8 126:7 129:6 245:3 250:2 <b>typo</b> 208:17</p>	<p>237:9 242:18 244:2 246:13 254:19 <b>understandable</b> 21:22 <b>understanding</b> 26:15 105:25 106:11,18 107:2 123:23 124:6 166:2,14 196:25 199:10 211:12 230:20 236:1 237:7 238:4,8 240:17 <b>understood</b> 154:2 165:20 194:7 235:9 <b>undertake</b> 132:24 <b>undertaking</b> 260:21 <b>undertook</b> 254:8 <b>underwrite</b> 258:12 <b>undrawn</b> 88:25 264:22 265:6 <b>unencumbered</b> 140:17 141:8 144:21 193:23 <b>unforeseen</b> 193:20 <b>unfortunately</b> 182:9 <b>unfunded</b> 88:20 <b>united</b> 1:1,12 <b>units</b> 242:18 <b>universe</b> 218:25 219:4,7 <b>unpunished</b> 236:9 <b>unredacted</b> 7:8,18 <b>unreliable</b> 14:14 <b>unsecured</b> 9:19 100:9 103:10 131:13 145:2</p>	<p><b>unusual</b> 88:24 <b>updated</b> 269:11 <b>upper</b> 32:15 <b>uscro</b> 93:14 <b>use</b> 32:21 33:11 43:23 47:9 51:17 59:24 61:16 66:18 67:9 79:20,25 82:15 98:25 105:10 145:20 162:14 194:18 210:18 222:21 235:17 240:20 241:24 244:5,16 244:23 245:20 247:6 259:9,10 260:19 <b>uses</b> 79:14 87:6 176:22 238:16 251:5 <b>utilities</b> 37:25 38:1 67:22 <b>utility</b> 36:6 183:4 185:9 <b>utilize</b> 75:21 <b>utilized</b> 94:13 100:17 104:12</p>	<p>216:5,14 259:21 <b>valuations</b> 205:16 <b>valuator</b> 125:25 <b>value</b> 18:18 19:5 21:6,10 23:16,22 23:23 24:1 32:11 32:11,12,21,22 33:12,16,17,17 34:2,5,8,16,16,21 35:3,16,17 36:12 36:21 37:7,24 38:3,10,16 40:1,5 40:9,10,12,16,21 41:7,14,15,18,23 42:2,13,25 43:8 43:14,20,22,24,25 44:6,8,8,23 47:6 48:18 59:1 61:6 61:14 63:17,18,19 63:21,22,25 64:2 64:4,6,10,14,15 64:22 65:11 66:17 67:14,14 68:20,21 69:11 70:11 72:4 75:22 76:11,21 77:2,7,18,24 78:8 78:22 81:6,7 88:2 89:4,5,7,16 90:2,4 90:6,17 97:19,24 99:14,20,21,22 100:3,12,12,13 103:23 105:17 107:5,6,6,11,15 107:17 108:5 111:7 112:9 114:4 115:6,10,11 116:11,13 117:9 117:22 118:2,5,7 118:17 124:1,12 125:5,7,9,15 127:15 129:6,21 131:22 132:4,15 132:19 136:2</p>
<p><b>u</b></p>			
<p><b>u</b> 28:21 113:16 <b>u.s.</b> 1:23 <b>u.s.c.</b> 6:11,13,15 7:4,6,7,15,16,18 <b>ucc</b> 110:7 241:17 242:13,16 <b>ucc's</b> 241:11 <b>ultimate</b> 150:11 261:6,17 <b>ultimately</b> 91:19 143:3 163:14 200:20 <b>uncertain</b> 83:15 <b>uncovered</b> 247:21 <b>underling</b> 191:16 <b>underlying</b> 15:25 25:4 46:9 218:21 218:23,24,25 219:6,9 <b>underneath</b> 85:13 232:7 <b>understand</b> 14:9 21:2 24:18 27:7 29:5 43:13,18,23 53:18 56:13 58:15 68:24 89:9 111:25 116:14 118:18 146:9 161:19,21 165:8 172:1 173:5 173:5 175:6 180:18 181:19,20 187:14 197:10 202:15 203:21 214:17 225:9</p>		<p><b>v</b></p>	
		<p><b>valid</b> 247:21 <b>validity</b> 242:1 244:24 <b>valuable</b> 138:19 <b>valuation</b> 19:13 21:7,9,10 41:25 43:9 70:25 78:17 98:6,6 107:14 116:25 125:19 126:3,12 128:14 128:18,23 129:10 132:14,16,25 163:5 166:14 170:25 192:14 205:12 215:3</p>	

[value - went]

Page 57

142:24 143:1 148:21 151:1,14 160:6 161:18,20 161:25 162:16 163:16,25 164:20 167:2,3 168:20 169:6,8,12 170:5 170:9,18,20 171:1 171:7,11,17 172:5 172:14,20 173:13 173:17 175:3,20 180:2,9 192:13 193:12 194:4 195:11 198:14,18 205:23,25 207:20 214:3 216:15 228:23 229:23 230:5 232:19 233:21 234:20,24 238:4,9 243:2,7 243:21 244:1 245:6 247:20 252:8,13 256:10 268:18 <b>valued</b> 99:5 129:16 132:5 174:13 193:25 206:2,5,10,11 242:22 <b>values</b> 32:25,25 72:3 125:10 130:24 131:3 134:13 198:14 202:19 205:22 208:9 216:8 <b>valuing</b> 21:12 41:24 98:25 130:19 <b>vantagepoint</b> 16:24 <b>variety</b> 69:20 <b>various</b> 33:15 100:9 170:24	188:15 195:16 231:7 <b>vary</b> 198:15 <b>vast</b> 230:21 <b>vendor</b> 69:6 <b>vendors</b> 183:3 <b>verification</b> 117:7 117:11 124:19 <b>verified</b> 124:21 <b>verify</b> 42:17 64:17 186:23 <b>verifying</b> 117:8 <b>veritext</b> 274:20 <b>version</b> 7:8,18 182:21 <b>versions</b> 210:25 <b>versus</b> 161:21 197:2 <b>vet</b> 19:8 42:11 75:23 <b>vetted</b> 15:24 <b>vetting</b> 18:5 42:15 <b>view</b> 63:14 103:3 105:13,14,16 107:4,5 108:2 138:25 141:9,9 150:5 158:18 163:16 196:21 199:4,7,8,19 213:21 214:7 226:2 230:24 231:3 243:14 <b>viewed</b> 118:1 129:17 <b>viewing</b> 264:5 <b>views</b> 211:10 <b>violates</b> 213:3 237:4 <b>virtue</b> 152:2 <b>visibility</b> 126:14 <b>voice</b> 121:4 <b>volume</b> 112:4 132:1 162:12	<b>w</b> <b>wait</b> 105:8 <b>waive</b> 149:14 <b>waived</b> 171:23 <b>waivers</b> 179:20 <b>walk</b> 139:24 141:14 165:2 <b>wall</b> 22:16 34:3,11 36:13,22 38:1 66:8,23,25 67:7 111:21 <b>wander</b> 10:25 <b>want</b> 11:18 27:7 41:24 51:15 55:18 57:6 58:9 70:22 73:18 74:20 91:22 94:20 106:24 113:21 123:20 126:2,18 136:16 138:2,3 145:15 146:7 149:14 164:17,17 169:18 169:18 171:2 186:18 191:1 193:3,8 195:23 211:8 231:25,25 232:14 238:19 242:11 243:14 257:4 263:23 267:11 <b>wanted</b> 55:23 93:7 97:13 141:19 148:9 153:15 174:14 235:11 259:4 264:13 <b>wants</b> 171:2 184:15 271:3 <b>warranties</b> 121:11 <b>warrants</b> 14:10 <b>wasn't</b> 80:17 110:9 111:4 198:25 232:25	250:5 261:16 <b>waves</b> 99:2 <b>way</b> 15:24 19:8 36:25 38:13 67:9 68:17 75:17 77:6 77:15 84:9,10 86:25 87:21 92:2 108:10,11 140:8 142:9,10 148:9,17 153:1 163:1 165:9 169:10 170:20 172:5 184:18 190:20 191:5 193:14 198:24 217:9 222:12 240:3 247:12 <b>ways</b> 43:11 171:9 <b>we've</b> 11:23 12:1 24:16 38:7 120:14 135:20 142:7 145:13 154:3 173:20,23 181:3 192:16 198:5 <b>weaver</b> 8:9 11:16 242:10 <b>week</b> 33:1,6 35:6 134:4,21 143:12 182:19 227:19 272:10,21 <b>weekly</b> 231:11 263:17 <b>weeks</b> 24:6 133:15 <b>weight</b> 17:11 18:25 19:12 91:20 244:3 <b>weil</b> 8:12,20 11:9 13:17 66:10 138:24 210:3,18 221:21 <b>went</b> 24:5 45:1 48:15 49:16 50:10 70:10 92:5 185:5 185:7,9,11,13
--	--	---	---

190:6 233:20 249:20 <b>weren't</b> 84:1 108:19 <b>we'd</b> 215:17 <b>we'll</b> 68:16 75:6,7 85:19 113:7 240:1 257:19 273:8 <b>we're</b> 53:11 59:16 67:12 75:9 209:25 227:11 229:1 239:25 242:8 246:25 247:4,22 264:5 267:10 <b>we've</b> 58:24 98:24 219:4 225:11 232:8 242:19 269:5 272:19 <b>whatsoever</b> 144:8 163:16 <b>what's</b> 66:9 80:24 80:25 205:2 261:6 267:11 269:21 <b>wheelbarrow</b> 49:16 <b>white</b> 1:14 <b>wholesale</b> 117:3 134:14 <b>who's</b> 73:3 273:1 <b>wide</b> 125:16 130:11,22 134:18 <b>widely</b> 17:13,14 <b>wildly</b> 64:8 <b>william</b> 10:5,13 73:6 74:25 97:4 98:11 110:1 <b>willing</b> 163:19,20 198:23,23 <b>wilmington</b> 2:6,11 6:9 7:2,12 9:2 12:17 98:14 222:18	<b>wind</b> 179:7,14 180:19,20,25 181:5 210:4 211:11 212:8 214:3,7,13,18 <b>winddown</b> 131:12 131:14 137:14,16 137:25 138:1 139:10 140:15 142:5,15 143:6 144:2,7,11,12 146:22 147:18 148:13 151:2,4 <b>wish</b> 30:3 <b>wit</b> 19:20 <b>withdraw</b> 86:23 <b>withdrawn</b> 199:8 <b>witness</b> 2:9 17:1 22:7 23:8 30:17 30:17 60:12 96:24 97:12 128:6 132:20 136:6,7 154:16 156:2,16 156:24 157:7,8 158:19 163:24 164:1 212:21,25 216:18 240:22 247:10 257:1 269:8 <b>witnesses</b> 23:11 136:9 <b>word</b> 31:16 46:4 46:14 77:21 91:3 106:24 258:16 <b>words</b> 14:25 19:2 19:25 33:5,24 77:15 93:7 111:9 123:11 149:2 170:4 <b>work</b> 18:16 45:25 49:2 54:16 55:7 119:25 129:13 130:12,15 131:7	211:13 221:4,9 271:25 <b>workers</b> 122:17 123:2 <b>worker's</b> 230:22 <b>working</b> 16:22 130:20 <b>works</b> 169:10 184:17 <b>worry</b> 68:17 <b>worth</b> 20:19 64:7 225:7 <b>worthless</b> 66:3 146:1 <b>wouldn't</b> 57:24 99:19 110:19,19 111:6 201:10 236:6 248:24 <b>would've</b> 210:10 261:19 <b>wound</b> 163:14 <b>wrap</b> 126:19 <b>written</b> 49:17 218:16 <b>wrong</b> 50:25 64:8 78:9 136:7 184:18 <b>wrote</b> 33:25 <b>x</b> <b>x</b> 1:4,10 170:9 <b>x08</b> 262:1 <b>y</b> <b>y</b> 113:16 <b>yeah</b> 11:20 33:10 42:17 47:3 52:24 62:11,19 69:5 83:8 86:3 133:23 133:24 138:2 140:7 144:19 154:12 156:18 172:9 182:12 201:7 222:9 223:7 225:4 230:6 245:16 251:1	259:2 <b>year</b> 203:16,20 205:4 231:6 <b>years</b> 16:23 65:6,9 123:3 200:1 231:4 249:21 <b>yellow</b> 35:10 <b>yielded</b> 89:6 <b>yields</b> 99:18 107:14 <b>york</b> 1:2 8:6,15 9:5,13,21 10:3 <b>york's</b> 169:17 <b>you'd</b> 56:1 57:12 91:10 92:4 102:23 104:25 112:13 200:1,7,10,21 203:3 204:4 206:20 207:4 255:12 273:6 <b>you'll</b> 53:10 54:4 55:10 81:14 89:13 247:18 253:5 <b>you're</b> 54:14,19 58:13 60:19 70:7 70:23,24 76:11 77:11,11 80:22 81:13 83:25 84:17 85:1 86:5 89:3 92:1 93:16 96:3,4 97:23 103:4 109:4 111:9,15,17 199:16,22 201:24 211:24 214:8,12 214:17 215:9 220:1,10 224:21 229:5 242:13 245:15 250:2,11 263:7 265:11 266:13,17 <b>you've</b> 73:15 75:6 199:20 205:6 211:15,18,21
---	--	---	--

[you've - zero]

Page 59

212:4 223:8 240:6 268:1
<b>z</b>
<b>zachary</b> 10:16 <b>zero</b> 44:11 48:25